



Queensland

Planning (Consequential) and Other Legislation Amendment Act 2016

Act No. 27 of 2016



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Queensland

Planning (Consequential) and Other Legislation Amendment Act 2016

Act No. 27 of 2016

An Act to make consequential amendments to the legislation stated in this Act for the purposes of the Planning Act 2016, and to amend other legislation stated in this Act for particular purposes

[Assented to 25 May 2016]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Aboriginal Cultural Heritage Act 2003

3 Act amended

This part amends the *Aboriginal Cultural Heritage Act 2003*.

4 Omission of s 89 (Cultural heritage management plan needed under Planning Act)

Section 89—
omit.

13 Amendment of s 35 (Content of land use plan)

(1) Section 35(1)(c) to (f) and editor's note—

omit, insert—

- (c) include a schedule of charges (a ***charges schedule***) the local government may, subject to section 43, levy for infrastructure provided by the local government in relation to development on the airport land; and
- (d) include an infrastructure interface plan for the land use plan; and
- (e) include any other matter prescribed by regulation.

(2) Section 35(2)—

omit, insert—

- (2) A land use plan for airport land may, for the Planning Act, do 1 or more of the following—
 - (a) categorise development on the airport land as assessable development or accepted development;
 - (b) state whether development categorised as assessable development under the plan requires code assessment or impact assessment under the Planning Act;
 - (c) state assessment benchmarks for the Planning Act that assessable development under the plan must be assessed against;
 - (d) categorise particular development on the airport land that is inconsistent with the plan as assessable development requiring impact assessment under the Planning Act.

(3) Section 35(3), 'Without limiting subsection (1)'—

omit, insert—

Also

[s 14]

(4) Section 35(3)(c)—

omit.

(5) Section 35(3)(d)—

renumber as section 35(3)(c).

(6) Section 35(4)—

omit, insert—

(4) Despite subsection (2)(a) and (d), the land use plan must not, for the Planning Act, categorise any of the following development on the airport land as assessable development—

(a) development that is a material change of use of premises for core airport infrastructure if the development is consistent with the plan;

(b) development categorised as accepted development under a regulation made under the Planning Act;

(c) development that a local categorising instrument under the Planning Act is prohibited, under section 43(4)(b) of that Act, from stating is assessable development.

14 Amendment of s 36 (Statement of proposal for preparation of land use plan or amendment of plan)

(1) Section 36(1)(b)(ii)(B), ‘either exempt or self-assessable’—

omit, insert—

accepted

(2) Section 36(4)—

omit.

15 Amendment of s 46 (Ministerial direction to airport lessee)

(1) Section 46(1) and (2)—

omit, insert—

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

(2) Section 46(6)—

omit.

16 Amendment of s 48 (Airport land not subject to local planning instrument)

Section 48(2), ‘chapter 3’—

omit, insert—

chapter 2, part 3

17 Omission of ss 49 and 50

Sections 49 and 50—

omit.

18 Amendment of s 52 (Particular provisions of Planning Act do not apply in relation to airport land)

(1) Section 52(1), ‘section 714’—

omit, insert—

section 262

(2) Section 52(2), ‘chapter 9, part 3,’—

omit, insert—

chapter 2, part 4, division 2

[s 19]

19 Amendment of s 53 (Modified application of Planning Act, ch 9, pt 6, div 4)

(1) Section 53, heading, ‘ch 9, pt 6, div 4’—

omit, insert—

s 264

(2) Section 53(1), ‘chapter 9, part 6, division 4,’—

omit, insert—

section 264

(3) Section 53(3)—

omit, insert—

(3) For subsection (1)—

(a) the Planning Act, section 264(3) applies as if a reference in the subsection to a local government were a reference to the planning chief executive; and

(b) a regulation made under the Planning Act, section 264(4) applies—

(i) as if a reference in the regulation to a local government were a reference to the planning chief executive; and

(ii) as if a reference in the regulation to a planning scheme were a reference to a land use plan; and

(iii) as if a reference in the regulation to an LGIP were a reference to a charges schedule for a land use plan; and

(iv) as if the regulation provides that a planning and development certificate must also be accompanied by—

(A) any statement of proposal for the airport land notified under section 38(2), if a draft plan in relation to the statement of proposal has not

yet been approved under section 41; or

(B) any draft plan for the airport land notified under section 38(2) but not yet approved under section 41; and

(v) with other necessary changes.

20 Amendment of s 54 (Development on local heritage place not assessable development)

(1) Section 54, heading—

omit, insert—

54 When development on local heritage place is not assessable development

(2) Section 54(1)—

omit, insert—

(1) Subsection (2) applies if a regulation made under the Planning Act categorises development on local heritage places as assessable development.

(1A) The development is not assessable development under the Planning Act to the extent the local heritage place is on an airport lessee's airport land.

(3) Section 54(2), 'Subsection (1) applies'—

omit, insert—

Subsections (1) and (2) apply

(4) Section 54(1A) to (3)—

renumber as section 54(2) to (4).

21 Replacement of s 55 (Restriction on designation for community infrastructure)

Section 55—

[s 22]

omit, insert—

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

- (1) Despite the Planning Act, chapter 2, part 5, only the planning Minister may, under that part, make a designation of premises that is, or includes, airport land.
- (2) Development carried out on premises that are the subject of a designation under the Planning Act made by a Minister is accepted development to the extent the development—
 - (a) is carried out under the designation; and
 - (b) would, other than for this subsection, be assessable development under a land use plan for airport land.
- (3) Subsection (2) does not limit the Planning Act, section 44(6)(b).

22 Omission of s 56 (Restriction on application of master plan)

Section 56—

omit.

23 Replacement of ss 58 and 59

Sections 58 and 59—

omit, insert—

58 Existing lawful uses, works and approvals

- (1) If, immediately before a land use plan for airport land is amended or replaced, a use of premises on the airport land was a lawful use of premises under the Planning Act, the plan as amended or replaced does not—
 - (a) stop the use from continuing; or

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

59 Implied and uncommenced right to use

- (1) This section applies if—
 - (a) a development approval comes into effect for premises wholly or partly on airport land; and
 - (b) when the application for the approval was properly made under the Planning Act or the repealed *Sustainable Planning Act 2009*, a material change of use for a use that the application implies did not require a development permit under the land use plan for the airport land; and
 - (c) after the application was properly made, but before the use started—
 - (i) the land use plan was amended or replaced and the material change of use is assessable development under the plan as amended or replaced; or

[s 24]

- (ii) the premises, to the extent they are on airport land, stopped being airport land and the material change of use is categorised as assessable development under a local planning instrument under the Planning Act.
- (2) The use is taken, for the Planning Act, to be a lawful use in existence immediately before the plan as amended or replaced took effect, or the local planning instrument started applying to the premises, if—
 - (a) the development approval has not lapsed; and
 - (b) the use starts within 5 years after the completion of the development the approval is for.

24 Amendment of s 61 (Amendment of planning schemes)

Section 61(3)—

omit, insert—

- (3) Despite the Planning Act—
 - (a) a notice or amended notice given under section 18(3) of that Act for an amendment mentioned in subsection (2), must not state the things mentioned in section 18(5)(a) to (g) of that Act; and
 - (b) an amendment mentioned in subsection (2) does not require the approval of the planning Minister before the amendment is made.

25 Omission of ch 6, pt 1, hdg (Miscellaneous)

Chapter 6, part 1, heading—

omit.

26 Omission of ch 6, pt 2 (Transitional provisions)

Chapter 6, part 2—

omit.

27 Insertion of new ch 7

After chapter 6—

insert—

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

108 Definitions for chapter

In this chapter—

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

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

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

109 Existing priority infrastructure interface plans

A priority infrastructure interface plan for a land use plan for airport land in force immediately before the

[s 27]

commencement is taken to be an infrastructure interface plan.

110 Existing development applications

- (1) Subsection (2) applies to an existing development application mentioned in former section 50.
- (2) Former section 50 continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) Subsection (4) applies to an existing development application mentioned in former section 51.
- (4) Former section 51 continues to apply in relation to the application as if the amending Act had not been enacted.
- (5) In this section—
existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

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

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

28 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *Planning Act*, *priority infrastructure interface plan*, *priority infrastructure plan* and *TIA*—
omit.
- (2) Schedule 3—
insert—

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

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

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

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

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

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

- (a) corrects or otherwise changes—
 - (i) a spelling, grammatical, mapping or typographical error in the plan; or
 - (ii) an explanatory matter about the plan, this Act or the Planning Act; or
 - (iii) the format or presentation of the plan; or

[s 29]

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

Planning Act means the *Planning Act 2016*.

- (3) Schedule 3, definition *charges schedule*, ‘section 35(1)(e)’—
omit, insert—
section 35(1)(c)
- (4) Schedule 3, definition *State interest*, ‘schedule 3’—
omit, insert—
schedule 2

Part 7 **Amendment of Biosecurity Act 2014**

29 **Act amended**

This part amends the *Biosecurity Act 2014*.

30 Amendment of s 9 (Relationship with particular Acts)

Section 9(6), definition *relevant Act*, paragraph (e)—
omit, insert—

- (e) *Planning Act 2016*;
- (f) *Vegetation Management Act 1999*.

31 Amendment of s 119 (Additional powers of inspector for place within a biosecurity emergency area)

- (1) Section 119(8)—
omit.
- (2) Section 119(9)—
renumber as section 119(8).

Part 8 Amendment of Body Corporate and Community Management Act 1997

32 Act amended

This part amends the *Body Corporate and Community Management Act 1997*.

33 Amendment of s 60 (Community management statement notation)

- (1) Section 60(4)(a) and (b)(i), '*Sustainable Planning Act 2009*'—
omit, insert—
Planning Act

[s 34]

(2) Section 60(7)(a), ‘under the *Sustainable Planning Act 2009*’—

omit.

(3) Section 60(8)—

omit, insert—

(8) An appeal under subsection (7) is started by lodging a written notice of appeal with the registrar of the court.

(8A) The notice of appeal must be in the approved form and succinctly state the grounds of the appeal.

(8B) The *Planning and Environment Court Act 2016*, part 5 applies, with necessary changes, to the appeal as if—

(a) the appeal were a Planning Act appeal under that Act; and

(b) the relevant planning body were the only other party to the appeal.

(8C) The appellant for the appeal must give a copy of the notice of appeal to the relevant planning body within 10 business days after starting the appeal.

(4) Section 60(9), definition *planning instrument*, paragraph (a)(i), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

(5) Section 60(8A) to (9)—

renumber as section 60(9) to (12).

34 Amendment of s 313 (Representation in planning proceedings)

Section 313(1), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act or the *Planning and Environment Court Act 2016*

35 Amendment of sch 6 (Dictionary)

(1) Schedule 6—

insert—

Planning Act means the *Planning Act 2016*.

(2) Schedule 6, definition *development approval*, paragraph (a), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

Part 9 Amendment of Building Act 1975

36 Act amended

This part amends the *Building Act 1975*.

37 Amendment of s 3 (Simplified outline of main provisions of Act)

(1) Section 3(1), after ‘assessable development’—

insert—

or accepted development

(2) Section 3(3)(a), from ‘and the’—

omit, insert—

; and

[s 38]

38 Amendment of s 5 (What is *building work*)

Section 5(1)(d), ‘, other than IDAS’—

omit.

39 Replacement of s 6 (What is a *building development application*)

Section 6—

omit, insert—

6 What is a *building development application*

(1) A *building development application* is—

- (a) a development application to the extent it is for a development approval for building work; or
- (b) a change application, other than a minor change application, to change a development approval to the extent the approval approves building work; or
- (c) a change application, other than a minor change application, to change a development approval—
 - (i) to approve building work; and
 - (ii) that does not already approve building work.

(2) In this section—

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

40 Amendment of s 10 (What is a *building certifying function*)

Section 10(a) and (b), ‘concurrency’—

omit, insert—

referral

41 Amendment of s 11 (Who is the *assessment manager* for a building development application)

Section 11(1), ‘section 246(1)’—

omit, insert—

section 48(1)

42 Amendment of s 16 (Reference in Act to applicants, development, assessment managers, referral agencies, building work or building certifiers)

(1) Section 16(1)(b) to (f)—

omit, insert—

- (b) building work—building work to which the application relates;
- (c) the building—the building to which the application relates;
- (d) the development—the development to which the application relates;
- (e) the assessment manager—
 - (i) if the application is a development application—the assessment manager for the application; or
 - (ii) if the application is a change application—the responsible entity for the application;
- (f) a referral agency—a referral agency for the application;

(2) Section 16(3)(b), ‘assessment manager for’—

omit, insert—

assessment manager or responsible entity for

[s 43]

43 Amendment of s 18 (Reference to local government includes any other assessment manager under the Planning Act)

(1) Section 18, heading, from ‘includes’—

omit, insert—

**in provision about building development
application**

(2) Section 18(b), after ‘local government’—

insert—

or a private certifier

44 Replacement of ch 2, hdg (When building work is assessable, self-assessable or exempt development)

Chapter 2, heading and notes—

omit, insert—

**Chapter 2 When building work
is assessable
development or
accepted
development**

Notes—

- 1 For the development assessment process under the Planning Act and offences against the Planning Act, including development offences, see the Planning Act, chapters 3 and 5.
- 2 See chapters 3 and 4 for other provisions for applying for and obtaining a building development approval and for assessing building work.

45 Amendment of s 20 (Building work that is assessable development for the Planning Act)

Section 20, from ‘unless’—

omit, insert—

unless the building work is accepted development under section 21(2) or a regulation made under the Planning Act.

46 Amendment of s 21 (Building work that is self-assessable for the Planning Act)

- (1) Section 21, heading, ‘self-assessable’—

omit, insert—

accepted development

- (2) Section 21(1)—

omit, insert—

- (1) Subsection (2) applies to the extent a regulation made under the Planning Act prescribes that this Act may declare building work to be accepted development.

- (3) Section 21(2) and (3)—

omit, insert—

- (2) Building work is declared to be accepted development for the Planning Act if—

(a) the building work is prescribed by regulation; and

(b) if the regulation states that the building work must comply with the relevant provisions—the building work complies with the relevant provisions for the building work.

- (3) Building work that is accepted development under a regulation made under the Planning Act or subsection (2) is ***accepted building work***.

- (4) Section 21—

insert—

[s 47]

- (5) In this section—
- relevant provisions*, for building work, means—
- (a) if alternative provisions under section 33, or provisions as varied under section 44 (*varied provisions*), apply to all or part of the building work—
 - (i) the alternative provisions or varied provisions; and
 - (ii) any relevant deemed-to-satisfy provision under the BCA or relevant acceptable solution under the QDC for the work, other than the QDC boundary clearance and site cover provisions; and
 - (iii) any other building assessment provision applying to the work; or
 - (b) if no alternative provisions under section 33, or varied provisions, apply to all or part of the building work—
 - (i) any relevant deemed-to-satisfy provision under the BCA or relevant acceptable solution under the QDC for the work; and
 - (ii) any other building assessment provision applying to the work.

47 Omission of s 22 (Building work that is exempt development for the Planning Act)

Section 22—

omit.

48 Amendment of ch 3, hdg (Additional requirements for building development applications)

Chapter 3, heading, note—

omit, insert—

Note—

For the general requirements for development applications and change applications, see the Planning Act, sections 51 and 79.

49 Amendment of s 25 (General requirements for supporting documents)

(1) Section 25(1), ‘, other than IDAS’—

omit.

(2) Section 25(2)(a)(ii), ‘concurrence’—

omit, insert—

referral

(3) Section 25(2)(c)(i)—

omit, insert—

(i) the application relates to development categorised as accepted development under a planning scheme; and

(4) Section 25(2)(d)(ii), ‘self-assessable’—

omit, insert—

accepted

50 Replacement of ch 4, hdg (Assessment of building development applications and carrying out self-assessable building work)

Chapter 4, heading—

omit, insert—

[s 51]

Chapter 4 Building assessment provisions and assessing building development applications

51 Amendment of ch 4, pt 1, hdg (Laws and other documents under which building work must be assessed)

Chapter 4, part 1, heading, ‘under which building work must be assessed’—

omit, insert—

applying to building work

52 Amendment of ch 4, pt 1, div 1, hdg (General provisions about the laws and documents for the assessment)

Chapter 4, part 1, division 1, heading, ‘for the assessment’—

omit, insert—

applying to building work

53 Amendment of s 30 (Relevant laws and other documents for assessment of building work)

(1) Section 30, heading—

omit, insert—

30 Meaning of *building assessment provisions*

(2) Section 30(1), from ‘Building’ to ‘*provisions*’—

omit, insert—

The following laws and other documents are the ***building assessment provisions***—

(3) Section 30(1)(a)—

omit.

- (4) Section 30(1)(e), ‘self-assessable’—

omit, insert—

accepted

- (5) Section 30(1)(b) to (h)—

renumber as section 30(1)(a) to (g).

- (6) Section 30(2)—

omit.

54 Amendment of s 31 (Building assessment provisions form a code for IDAS)

- (1) Section 31, heading, ‘form a code for IDAS’—

omit, insert—

are assessment benchmarks for Planning Act

- (2) Section 31(1)—

omit, insert—

- (1) Each of the building assessment provisions is an assessment benchmark for the Planning Act for the assessment of building work that is assessable development under section 20.

- (3) Section 31(2), from ‘However’ to ‘subject to—’—

omit, insert—

However, for the assessment of the building work under the Planning Act, the building assessment provisions are subject to—

- (4) Section 31(3), from ‘Each’ to ‘code that’—

omit, insert—

The effect of a building assessment provision mentioned in section 30(a) to (d), (f) or (g)

- (5) Section 31(4), from ‘the building work’—

[s 55]

omit, insert—

a building assessment provision mentioned in subsection (3) applies to the building work.

55 Amendment of s 33 (Alternative provisions to QDC boundary clearance and site cover provisions for particular buildings)

Section 33(1)(a), ‘self-assessable’—

omit, insert—

accepted

56 Omission of s 34 (Relationship between IDAS and other building assessment provisions)

Section 34—

omit.

57 Amendment of s 34A (Decision for building development application that complies with building assessment provisions)

(1) Section 34A(1), ‘chapter 6’—

omit, insert—

chapter 3

(2) Section 34A(2), ‘building application’—

omit, insert—

building development application

58 Amendment of s 37 (Provision for changes to building assessment provisions)

(1) Section 37(2), ‘, and IDAS’—

omit.

(2) Section 37(5)—

omit.

59 Amendment of s 38 (Applying to vary how particular building assessment provision applies)

Section 38(1)(b), ‘, other than IDAS’—

omit.

60 Amendment of s 40 (Effect of variation application on IDAS process)

(1) Section 40, heading, ‘IDAS process’—

omit, insert—

development assessment process under Planning Act

(2) Section 40, ‘process under IDAS’—

omit, insert—

development assessment process under the Planning Act

61 Amendment of s 42 (Criteria for decision)

Section 42(1)(a), ‘, other than IDAS’—

omit.

62 Amendment of s 43 (Notice of decision)

Section 43(2), note, ‘section 532’—

omit, insert—

section 228

63 Amendment of s 46 (Concurrence agencies may carry out building assessment work within their jurisdiction)

(1) Section 46, heading and subsections (1) and (2)—

[s 64]

omit, insert—

46 Referral agencies may assess application against building assessment provisions

- (1) This section applies if, under the Planning Act—
 - (a) a person is a referral agency for a building development application; and
 - (b) the person must assess the application against a building assessment provision or part of a building assessment provision.
- (2) Only the referral agency may assess the application against the provision or part.
- (2) Section 46(3), ‘part by the concurrence’—

omit, insert—

application by the referral

- (3) Section 46(5) and notes—

omit, insert—

- (5) If the referral agency must, under the Planning Act, assess the application against the fire safety standard, the referral agency must appoint or employ a building certifier to carry out the assessment.

Note—

For the referral agencies for building development applications, see the Planning Act, section 54(2).

64 Amendment of s 48 (Functions of private certifier (class A))

- (1) Section 48(1)(b)—

omit, insert—

- (b) assess and decide the application, and give a decision notice for the application; and

- (2) Section 48(2)—

omit.

- (3) Section 48(4), ‘subsections (1)(c), (2) and (3)’—

omit, insert—

subsections (1)(c) and (2)

- (4) Section 48(5) and (6)—

omit, insert—

- (4A) Despite the Planning Act—

(a) a private certifier (class A) is an enforcement authority for that Act in relation to building work only until a final inspection certificate for the building work, or a certificate of classification for the building, is given; and

(b) after the final inspection certificate or certificate of classification is given, the local government is the enforcement authority for that Act in relation to the building work.

- (5) To remove any doubt, it is declared that subsections (1)(c) and (2) do not limit the local government’s functions or powers under this Act or the Planning Act, chapter 5, part 3.

- (6) Subsection (7) applies if—

(a) under this section a private certifier (class A) gives a person an enforcement notice under this Act; or

(b) a private certifier (class A) that is an enforcement authority under the Planning Act gives a person an enforcement notice under the Planning Act.

- (7) If the person does not comply with the enforcement notice, the private certifier (class A) must give the local government a notice that the person has not complied with the enforcement notice.

[s 65]

- (5) Section 48(3) to (4A)—
renumber as section 48(2) to (4).

65 Amendment of s 51 (Function to act on building development application or development approval unless private certifier (class A) engaged)

- (1) Section 51(2)(a), ‘IDAS’—
omit, insert—
the Planning Act, chapter 3
- (2) Section 51(4), ‘sections 30’—
omit, insert—
sections 31
- (3) Section 51(5), definition *nominated owner*, ‘on the approved form under the Planning Act, section 260(2)’—
omit, insert—
in the application

66 Replacement of s 54 (Local government may rely on documents private certifier gives it for inspection or purchase)

Section 54—

omit, insert—

54 Local government may rely on documents private certifier gives it for providing public access

- (1) This section applies if—
- (a) under this Act, a private certifier gives a document to the local government for a building development application; and
 - (b) under the Planning Act, section 263, the local government must, or may, keep the document publicly available.

- (2) The local government may accept, and without further checking, rely and act on the document for the purpose of making the document publicly available.

67 Amendment of ch 4, pt 2, div 4, hdg (Power of particular replacement assessment managers to decide status under IDAS)

Chapter 4, part 2, division 4, heading, ‘under IDAS’—

omit, insert—

of development assessment process under Planning Act

68 Amendment of s 55 (Power to decide what stage of IDAS application is to resume or start)

- (1) Section 55, heading—

omit, insert—

55 Power to decide what stage of development assessment process under Planning Act application process may resume or start

- (2) Section 55(3), ‘IDAS’—

omit, insert—

the development assessment process under the
Planning Act

69 Amendment of s 57 (Building certifier’s or concurrence agency’s discretion—QDC)

Section 57, ‘concurrence’—

omit, insert—

referral

[s 70]

70 Amendment of s 59 (Discretion for building development applications for particular budget accommodation buildings)

Section 59(2) and example—

omit, insert—

- (2) The decision on the application may be inconsistent with the planning scheme applying to the land on which the building work is to be carried out.

Example—

A desired outcome in the planning scheme is that the building does not affect the amenity and aesthetics of the neighbourhood of the building. An external stairway required under the fire safety standard does not achieve the outcome. The application may be approved despite the inconsistency.

71 Omission of s 62 (Requirement to consider any advice agency response)

Section 62—

omit.

72 Amendment of ch 4, pt 5, hdg (Conditions of building development approvals)

Chapter 4, part 5, heading, note, ‘chapter 6, part 5, division 6’—

omit, insert—

chapter 3, part 3, division 3

73 Amendment of s 69 (Operation of div 1)

- (1) Section 69(4)(b)—

omit, insert—

- (b) comply with the Planning Act, section 65(1).

-
- (2) Section 69(5), ‘chapter 6, part 8, division 2 and section 378 do’—

omit, insert—

chapter 3, part 5, division 2, subdivision 2 does

74 Amendment of s 71 (When demolition, removal and rebuilding must start and be completed)

Section 71(12), note, ‘section 532’—

omit, insert—

section 228

75 Amendment of s 83 (General restrictions on granting building development approval)

- (1) Section 83(1)(a) and example, ‘and SPA compliance permits’—

omit.

- (2) Section 83(1)(d)—

omit, insert—

(d) if, under the Planning Act, a referral agency must assess the application against a building assessment provision, or part of a building assessment provision—until—

(i) the referral agency has assessed the application against the provision or part; and

(ii) any security required by the relevant local government to be given to it by the applicant for the carrying out of the building work has been given; and

- (3) Section 83(2) and (3)—

omit, insert—

[s 76]

- (2) Subsection (3) applies if the private certifier receives the application before a following application or request is decided—
 - (a) if subsection (1)(a) applies to the application—a development application for each development permit mentioned in the subsection;
 - (b) if subsection (1)(b) applies to the application—a development application for each preliminary approval mentioned in the subsection;
 - (c) if subsection (1)(e) applies to the application—a request under the *Plumbing and Drainage Act 2002* for a compliance permit mentioned in the subsection.
- (3) For the development assessment process under the Planning Act, the application is taken not to have been received by the private certifier until the day the last or only application or request mentioned in subsection (2)(a), (b) or (c) to be decided is decided.
- (4) This section does not limit part 4.

76 Amendment of s 84 (Approval must not be inconsistent with particular earlier approvals or self-assessable development)

- (1) Section 84, heading, ‘self-assessable’—
omit, insert—
accepted
- (2) Section 84(1)(a), ‘or an SPA compliance permit’—
omit.
- (3) Section 84(1)(b) and (c), ‘or permit’—
omit.

(4) Section 84(2)(a), ‘self-assessable’—

omit, insert—

accepted

(5) Section 84(2)(c)—

omit, insert—

(c) a local planning instrument categorised the development as accepted development; and

(6) Section 84—

insert—

(3) For subsection (1), if the application is a change application, the development approval to which the change application relates is not an earlier development approval.

77 Amendment of s 85 (Additional requirement for decision notice)

Section 85, from ‘details’—

omit, insert—

information about any requirements the building work must comply with to be categorised as accepted development under the Planning Act.

78 Amendment of s 86 (Requirements on approval of application)

Section 86(2), note—

omit, insert—

Note—

For public access to particular documents, see the Planning Act, chapter 7, part 3.

[s 79]

79 Replacement of s 90 (Relevant period under the Planning Act, s 341 for development approval)

Section 90—

omit, insert—

90 Currency period under the Planning Act, s 85(1) for building development approval

- (1) The period, or extended period, under the demolition/removal completion condition of the building development approval is taken to be, for the Planning Act, the currency period for the approval.
- (2) The currency period under subsection (1) may not be extended under the Planning Act.

80 Amendment of s 91 (Lapsing of building development approval)

Section 91(1), ‘section 341’—

omit, insert—

section 85

81 Amendment of s 94 (Application of div 2)

Section 94(2), note, ‘chapter 6, part 5, divisions 5 and 6 and part 8, divisions 2 to 5’—

omit, insert—

chapter 3, part 3, division 3 and part 5, division 2, subdivision 2 and division 4

82 Amendment of s 95 (Reminder notice requirement for lapsing)

- (1) Section 95(1), ‘chapter 6, part 5, divisions 5 and 6’—

omit, insert—

chapter 3, part 3, division 3 and part 5, division 4

- (2) Section 95(3)(b)(iv), ‘relevant period under the Planning Act, section 341’—

omit, insert—

currency period under the Planning Act, section 85(1)

83 Amendment of s 96 (Extension of lapsing time because of application to extend relevant period under the Planning Act, s 341)

- (1) Section 96, heading, from ‘relevant’ to ‘341’—

omit, insert—

currency period under Planning Act, s 85(1)

- (2) Section 96(1)(b), from ‘a request’ to ‘341’—

omit, insert—

an extension application is made under the Planning Act to extend the currency period under the Planning Act, section 85(1)

- (3) Section 96(2)(b), ‘relevant’—

omit, insert—

currency

84 Amendment of s 97 (Restriction on private certifier (class A) extending relevant period under the Planning Act, s 341 more than once)

- (1) Section 97, heading, from ‘relevant’ to ‘341’—

omit, insert—

currency period under Planning Act, s 85(1)

- (2) Section 97(1), from ‘relevant’ to ‘341’—

omit, insert—

currency period under the Planning Act, section 85(1)

[s 85]

(3) Section 97(3), ‘chapter 6, part 5, divisions 5 and 6’—
omit, insert—

chapter 3, part 3, division 3 and part 5, division 4

85 Amendment of s 99 (Obligation to give owner inspection documentation on final inspection)

Section 99(1), note—

omit, insert—

Note—

For rights of appeal to a development tribunal, see the Planning Act, section 228.

86 Amendment of s 102 (Obligation to give certificate of classification on inspection after particular events)

Section 102(3), note 1—

omit, insert—

1 For rights of appeal to a development tribunal, see the Planning Act, section 228.

87 Amendment of s 107 (Building certifier’s obligation to give referral agency certificate and other documents)

Section 107(2)(b), from ‘within’—

omit, insert—

relevant to the agency’s functions as a referral agency, other than plans or specifications given to the agency under the Planning Act, section 63(3); and

88 Amendment of s 122 (Building certifier’s obligation to give owner inspection documentation if building development approval lapses)

Section 122, note, ‘chapter 6, part 5, divisions 5 and 6’—

omit, insert—

chapter 3, part 5, division 4

89 Amendment of s 131 (Access to code of conduct)

Section 131, from ‘for inspection as’—

omit, insert—

to the public, as if the code were a document that, under the Planning Act, section 263, the chief executive must keep available for inspection only.

90 Amendment of s 146 (Agreed fee recoverable despite valid refusal of particular actions)

Section 146(1)(b), ‘applicable code under IDAS have’—

omit, insert—

assessment benchmark under the Planning Act has

91 Amendment of s 204 (Decision after investigation or audit completed)

(1) Section 204(4)(e)(iii), ‘self-assessable’—

omit, insert—

accepted

(2) Section 204(4)(e)(iv)—

omit.

(3) Section 204(9)—

omit, insert—

(9) In this section—

accepted development means development categorised under a local planning instrument as accepted development for the Planning Act.

[s 92]

92 Amendment of s 220 (Owner must ensure building conforms with fire safety standard)

Section 220, note, from ‘section 30’—

omit, insert—

chapter 4, part 1. See also section 21 for development that is accepted development for the Planning Act.

93 Amendment of s 221 (Approval of longer period for conformity with fire safety standard)

Section 221(5), note—

omit, insert—

Note—

For rights of appeal to a development tribunal, see the Planning Act, section 228.

94 Amendment of s 223 (Stay of operation of local government decision)

Section 223(a), ‘a building and development dispute resolution committee’—

omit, insert—

a development tribunal

95 Amendment of s 226 (Obligation about fire safety management plan)

Section 226(1)—

omit, insert—

- (1) This section applies if—
 - (a) the owner of a budget accommodation building prepares a fire safety management plan for a development application or change application that relates to the building; and

(b) the application is approved.

96 Amendment of s 231AI (RCB assessment reports)

Section 231AI(5), note—

omit, insert—

Note—

For rights of appeal to a development tribunal, see the Planning Act, section 228.

97 Amendment of s 231AL (Approval of later day for obtaining fire safety (RCB) compliance certificate or certificate of classification)

Section 231AL(6), note 2—

omit, insert—

2 For rights of appeal to a development tribunal, see the Planning Act, section 228.

98 Amendment of s 238 (Notice of decision)

Section 238(2), note—

omit, insert—

Note—

For rights of appeal to a development tribunal, see the Planning Act, section 228.

99 Amendment of s 242 (Local government may revoke exemption)

Section 242(4), note—

omit, insert—

Note—

For rights of appeal to a development tribunal, see the Planning Act, section 228.

[s 100]

100 Amendment of s 244 (Keeping copy of exemption)

Section 244(2)(b), ‘chapter 9, part 6,’—

omit.

101 Amendment of s 245C (Notice of decision and application of pool safety standard under exemption)

Section 245C(2), note—

omit, insert—

Note—

For rights of appeal to a development tribunal, see the Planning Act, section 228.

102 Amendment of s 245E (Local government may revoke exemption)

Section 245E(4), note—

omit, insert—

Note—

For rights of appeal to a development tribunal, see the Planning Act, section 228.

103 Amendment of s 245FA (Keeping copy of exemption)

Section 245FA(2)(b), ‘chapter 9, part 6,’—

omit.

104 Amendment of s 245S (Appeals to building and development committee of decisions under div 6)

(1) Section 245S, heading, ‘building and development committee’—

omit, insert—

development tribunal

-
- (2) Section 245S(2), ‘building and development committee under the Planning Act’—

omit, insert—

development tribunal

105 Amendment of s 246AO (Appeals to building and development committee of decisions under pt 3)

- (1) Section 246AO, heading, ‘building and development committee’—

omit, insert—

development tribunal

- (2) Section 246AO(2), ‘building and development committee under the Planning Act’—

omit, insert—

development tribunal

- (3) Section 246AO(2), note—

omit.

106 Amendment of s 246ATB (Private certifier to take enforcement action)

- (1) Section 246ATB(2)(b), ‘chapter 7, part 3, divisions 2 and 3 to an assessing’—

omit, insert—

chapter 5, part 3 to an enforcement

- (2) Section 246ATB(4), ‘section 588(2)’—

omit, insert—

section 166

- (3) Section 246ATB(5), ‘chapter 7, part 3, divisions 2 and 3’—

omit, insert—

chapter 5, part 3

[s 107]

107 Amendment of ch 9, hdg (Show cause and enforcement notices)

Chapter 9, heading, note, ‘chapter 7, part 3, divisions 2 and 3’—

omit, insert—

chapter 5, part 3

108 Amendment of s 248 (Enforcement notices)

Section 248(5), ‘section 590’—

omit, insert—

section 167

109 Amendment of s 250 (Appeals against enforcement notices)

Section 250(1), ‘building and development dispute resolution committee’—

omit, insert—

development tribunal

110 Amendment of s 255 (Information to be given by the State)

Section 255(1), ‘section 232(1), is self-assessable’—

omit, insert—

is accepted

111 Amendment of s 259 (Access to guidelines)

Section 259, ‘chapter 9, part 6’—

omit, insert—

section 263

112 Insertion of new ch 11, pt 19

Chapter 11—

insert—

**Part 19 Transitional provision
for Planning
(Consequential) and
Other Legislation
Amendment Act 2016**

345 Existing building development applications

- (1) This section applies to an existing building development application.
- (2) This Act, as in force immediately before the commencement, continues to apply in relation to the application as if the *Planning (Consequential) and Other Legislation Amendment Act 2016* had not been enacted.
- (3) In this section—

existing building development application means a building development application, as defined in former section 6, to which the Planning Act, section 287 applies.

former section 6 means section 6 as in force immediately before the commencement.

113 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *advice agency, building and development dispute resolution committee, building assessment provisions, building development application, concurrence agency, decision notice, development application, development approval, development permit, IDAS, local planning instrument, Planning Act, planning scheme, properly made application, self-assessable building*

[s 113]

work, SPA compliance certificate and SPA compliance permit—

omit.

(2) Schedule 2—

insert—

accepted building work see section 21(3).

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

building assessment provisions see section 30.

building development application see section 6(1).

change application means a change application under the Planning Act.

decision notice, for a development application or change application, means the decision notice given under the Planning Act about the decision on the application.

development application means a development application under the Planning Act.

development approval means a development approval under the Planning Act.

development permit means a development permit under the Planning Act.

development tribunal means a tribunal established under the Planning Act, section 234.

local planning instrument means a local planning instrument under the Planning Act.

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

properly made application, for a building development application, means a building development application that—

- (a) if the application is a change application—
 - (i) is an application that the responsible entity for the application must accept under the Planning Act, section 79(2)(a); or
 - (ii) may be accepted by the responsible entity for the application under the Planning Act, section 79(2)(c) or (d); and

Editor's note—

Subparagraph (ii) refers to a provision proposed to be inserted by an amendment in consideration in detail of the Planning Bill 2015.

- (b) if the application is a development application—is a properly made application under the Planning Act; and
- (c) complies with any requirements under chapter 3 applying to the application.

responsible entity, for a change application, means the responsible entity under the Planning Act for the application.

- (3) Schedule 2, definition *assessable development*, ‘schedule 3’—
omit, insert—
section 44(3)
- (4) Schedule 2, definition *enforcement action*, ‘chapter 7, part 3, divisions 2 and 3’—
omit, insert—
chapter 5, part 3
- (5) Schedule 2, definition *negotiated decision notice*, ‘section 363(1)’—

omit, insert—

section 76(3)

Part 10 Amendment of Building and Construction Industry (Portable Long Service Leave) Act 1991

114 Act amended

This part amends the *Building and Construction Industry (Portable Long Service Leave) Act 1991*.

115 Amendment of s 67 (Notification of building and construction work)

Section 67(2)(a), from ‘or compliance’ to ‘2009’—

omit, insert—

under the Planning Act

116 Amendment of s 73 (Meaning of *cost* of building and construction work)

Section 73(4), definition *environmental impact statement*,
paragraph (c), after ‘the’—

insert—

repealed

117 Amendment of s 74 (Liability for levy)

(1) Section 74(c), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

-
- (2) Section 74(ca)—
omit.
- (3) Section 74(d), ‘(b), (c) and (ca)’—
omit, insert—
(b) and (c)

118 Amendment of s 75 (When levy is payable)

- (1) Section 75(1)(a)(i), from ‘or compliance’ to ‘2009’—
omit, insert—
under the Planning Act
- (2) Section 75(1)(a)(ii), ‘*Sustainable Planning Act 2009*’—
omit, insert—
Planning Act
- (3) Section 75(1)(b), ‘, compliance permit’—
omit.

119 Amendment of s 77 (Duty to sight approved form)

- (1) Section 77(1)(a) and (b), ‘*Sustainable Planning Act 2009*’—
omit, insert—
Planning Act
- (2) Section 77(1A)—
omit.
- (3) Section 77(2), from ‘manager’ to ‘compliance permit’—
omit, insert—
manager or local government (the *relevant authority*) must not give the development permit or approval
- (4) Section 77(5), definition *assessment manager*, paragraph (a), ‘*Sustainable Planning Act 2009*, section 246(1)’—

omit, insert—

Planning Act

120 Insertion of new pt 11, div 8

Part 11—

insert—

Division 8 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

125 Existing particular development applications or requests for compliance assessment

- (1) Subsection (2) applies to—
 - (a) an existing application for a development permit mentioned in former section 74(c); and
 - (b) an existing request for compliance assessment mentioned in former section 74(ca).
- (2) Former section 74 continues to apply in relation to the application or request as if the amending Act had not been enacted.
- (3) Subsection (4) applies to—
 - (a) an existing application for a development permit mentioned in former section 75(1)(a)(i); and
 - (b) an existing request for compliance assessment in relation to work mentioned in former section 75(1)(a)(i).
- (4) Former section 75 continues to apply in relation to the application or request as if the amending Act had not been enacted.

-
- (5) Subsection (6) applies to—
- (a) an existing application for a development permit mentioned in former section 77(1)(a); and
 - (b) an existing request for compliance assessment of work mentioned in former section 77(1A).

- (6) Former section 77 continues to apply in relation to the application or request as if the amending Act had not been enacted.

- (7) In this section—

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

existing application means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

existing request for compliance assessment means a request for compliance assessment made under the repealed Planning Act, to which the Planning Act, section 287 applies.

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

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

121 Amendment of schedule (Dictionary)

- (1) Schedule, definition *private certifier (class A)*—
omit.
- (2) Schedule—

[s 122]

insert—

Planning Act means the *Planning Act 2016*.

private certifier see the Planning Act, schedule 2.

private certifier (class A) means a private certifier whose licence as a building certifier under the *Building Act 1975* has a development approval endorsement under that Act.

- (3) Schedule, definition *assessment manager*, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

Part 11 Amendment of Cape York Peninsula Heritage Act 2007

122 Act amended

This part amends the *Cape York Peninsula Heritage Act 2007*

123 Insertion of new pt 7

After section 29—

insert—

Part 7 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

30 Continuing application of pt 4 to existing vegetation clearing application

- (1) Part 4 continues to apply in relation to an existing vegetation clearing application as if the application were a vegetation clearing application.
- (2) In this section—

existing vegetation clearing application means a vegetation clearing application—

 - (a) as defined in the schedule immediately before the commencement; and
 - (b) to which the *Planning Act 2016*, section 287 applies.

124 Amendment of schedule (Dictionary)

Schedule, definition *vegetation clearing application*—
omit, insert—

vegetation clearing application see the *Vegetation Management Act 1999*, schedule.

Part 12 Amendment of Century Zinc Project Act 1997

125 Act amended

This part amends the *Century Zinc Project Act 1997*.

126 Insertion of new pt 8

After section 22—
insert—

Part 8

Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

23 Existing development applications—Gregory outstation

(1) Former part 4 continues to apply in relation to an existing development application as if the amending Act had not been enacted.

(2) In this section—

existing development application means a development application—

(a) made under the repealed *Sustainable Planning Act 2009* for the use or development to which former part 4 applied; and

(b) to which the *Planning Act 2016*, section 287 applies.

former part 4 means part 4 as in force immediately before the commencement.

127 Amendment of sch 6 (Dictionary)

Schedule 6, definition *development application*, paragraph (a)—
omit, insert—

(a) the *Planning Act 2016*;

Part 13 **Amendment of City of Brisbane Act 2010**

128 Act amended

This part amends the *City of Brisbane Act 2010*.

129 Amendment of s 40 (Development processes)

Section 40(2), ‘a process in the Planning Act, chapter 6’—
omit, insert—

the development assessment process under the
Planning Act

130 Amendment of s 79 (Assessment of impacts on roads from certain activities)

Section 79(1)(c)(ii)—
omit, insert—

(ii) development categorised under the
council’s planning scheme as
assessable development for the
Planning Act; or

131 Insertion of new ch 8, pt 7

Chapter 8—
insert—

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

270 Definitions for part

In this part—

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

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

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

271 Existing development application—resumption of particular land

- (1) This section applies to an existing development application mentioned in former section 90(1)(a).
- (2) Former section 90 continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

272 Entry under existing application, permit or notice

- (1) This section applies to an application, permit or notice—

- (a) mentioned in former section 121; and
 - (b) made or given under the repealed Planning Act.
- (2) Former section 121 continues to apply in relation to the application, permit or notice as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

273 Existing remedial notice

- (1) This section applies to a remedial notice—
- (a) given under former section 127A; and
 - (b) requiring the owner or occupier of a property to take action under the repealed Planning Act.
- (2) The remedial notice continues to have effect as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

274 Existing inside information

- (1) This section applies to information about any of the following (*existing inside information*) that, immediately before the commencement, was inside information, in relation to the council, for former section 173A—
- (a) the exercise of a power under the repealed Planning Act by the council, a councillor or a council employee;
 - (b) a decision, or proposed decision, under the repealed Planning Act of the council or any of its committees;
 - (c) the exercise of a power under the repealed Planning Act by the State, a Minister, a statutory body or an employee of the State or statutory body, that affects the council,

[s 132]

any of its corporate entities or land or infrastructure within Brisbane;

(d) any legal or financial advice about the repealed Planning Act created for the council, any of its committees or any of its corporate entities.

(2) Former section 173A continues to apply in relation to the existing inside information as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

275 Existing unpaid fine—where fine to be paid to

(1) This section applies to a fine mentioned in former section 228 that—

(a) is unpaid; and

(b) was imposed in proceedings brought by the council for an offence against the repealed Planning Act.

(2) Former section 228 continues to apply in relation to the fine as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

132 Amendment of sch 1 (Dictionary)

(1) Schedule 1, definitions *Planning Act*, *Planning and Environment Court* and *planning scheme*—
omit.

(2) Schedule 1—
insert—

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

Part 14 **Amendment of Coastal Protection and Management Act 1995**

133 **Act amended**

This part amends the *Coastal Protection and Management Act 1995*.

134 **Amendment of s 9 (Meaning of *canal*)**

Section 9—

insert—

(4) Also, *canal* does not include an artificial waterway that intersects, or is connected to, inundated land or leased land if a registered proprietor of the land or lessee of the leased land may restrict or prohibit the use or movement of vessels in water on the land.

(5) In this section—

registered proprietor, of land, means a person recorded in the freehold land register under the *Land Title Act 1994* as a proprietor of the land.

135 **Amendment of s 21 (Content of coastal plan)**

Section 21(3) and (4)—

omit, insert—

(3) The coastal plan may include either or both of the following—

- (a) a map or series of maps showing coastal resource information;
- (b) requirements about coastal resources or land management in the coastal zone.

[s 136]

136 Amendment of s 25 (Notice about draft coastal plan)

(1) Section 25(4)(a)—

omit.

(2) Section 25(4)(b) and (c)—

renumber as section 25(4)(a) and (b).

137 Amendment of s 28 (Notice about making coastal plan)

(1) Section 28(3)(a)—

omit.

(2) Section 28(3)(b) and (c)—

renumber as section 28(3)(a) and (b).

138 Amendment of s 34 (Implementation of coastal plan)

(1) Section 34(3)(a)—

omit.

(2) Section 34(3)(b) and (c)—

renumber as section 34(3)(a) and (b).

139 Amendment of s 66 (Coastal building line)

Section 66(1), from 'For' to 'Planning Act'—

omit, insert—

For assessing, under the Planning Act, building work
that is assessable development

**140 Amendment of s 85 (Suspension or
cancellation—grounds)**

Section 85(b)(iii), after 'applied for'—

insert—

or obtained

141 Omission of ch 2, pt 5, div 2 (Removal of quarry material may require other approvals)

Chapter 2, part 5, division 2—

omit.

142 Replacement of ch 2, pt 6, hdg (Development approvals for assessable development)

Chapter 2, part 6, heading—

omit, insert—

Part 6 Land surrender and artificial waterways

143 Omission of ch 2, pt 6, divs 1 and 2

Chapter 2, part 6, divisions 1 and 2—

omit.

144 Replacement of s 109 (Application of div 3)

Section 109—

omit, insert—

109 Definitions for division

In this division—

change application—

- (a) means a change application under the Planning Act; but
- (b) does not include a change application for a minor change to a development approval, as defined in the Planning Act.

relevant application means—

- (a) a development application for a development approval for reconfiguring a

[s 145]

- lot that is completely or partly within a coastal management district; or
- (b) a change application to change a development approval that already approves reconfiguring a lot that is completely or partly within a coastal management district; or
 - (c) a change application to change a development approval—
 - (i) to approve reconfiguring a lot that is completely or partly within a coastal management district; and
 - (ii) that does not already approve reconfiguring a lot that is completely or partly within a coastal management district.

145 Replacement of ch 2, pt 6, div 3, sdiv 2 (Land surrender conditions)

Chapter 2, part 6, division 3, subdivision 2—

omit, insert—

Subdivision 2 Land surrender requirements

110 Application of subdivision

This subdivision applies if—

- (a) a person makes a relevant application; and
- (b) the lot to be reconfigured includes land (the *prescribed land*) that is—
 - (i) in a coastal management district; and
 - (ii) in an erosion prone area or within 40m of the foreshore; and

- (c) the planning chief executive is—
 - (i) if the relevant application is a development application—the assessment manager or a referral agency for the application; or
 - (ii) if the relevant application is a change application—the responsible entity or a referral agency for the application.

111 Notice of proposed land surrender requirement

- (1) This section applies if the chief executive proposes to require the owner of the prescribed land to surrender all or part of the prescribed land to the State for coastal management.
- (2) The chief executive must give written notice (each a *proposed surrender notice*) of the proposal to—
 - (a) the applicant; and
 - (b) if the applicant is not the owner of the land—the owner of the land; and
 - (c) the planning chief executive; and
 - (d) if the relevant application is a development application and the planning chief executive is not the assessment manager for the application—the assessment manager for the application; and
 - (e) if the relevant application is a change application and the planning chief executive is not the responsible entity for the application—the responsible entity for the application.
- (3) Each proposed surrender notice must state—

[s 145]

- (a) details of the prescribed land the chief executive proposes be required for surrender; and
 - (b) that the owner may, within 15 business days after receiving the notice, make a written submission to the chief executive about the proposal.
- (4) The notice must be given within—
- (a) if the relevant application is a development application and the planning chief executive is the assessment manager for the application—15 business days after the application is properly made under the Planning Act; or
 - (b) if the relevant application is a change application and the planning chief executive is the responsible entity for the application—15 business days after the application is made; or
 - (c) otherwise—15 business days after the relevant application is given to the planning chief executive.

112 Decision whether to require surrender of land

- (1) In deciding whether or not to require the surrender of the land stated in a proposed surrender notice, the chief executive must consider—
 - (a) any written submission made to the chief executive by the owner of the land; and
 - (b) how the surrender would avoid or minimise detrimental impacts on coastal management.
- (2) If the chief executive decides not to require the surrender, the chief executive must, within 30 business days after the last proposed surrender notice was given, give written notice of the

decision to each entity to whom the proposed surrender notice was given.

- (3) However, the chief executive may extend the period mentioned in subsection (2) by not more than 10 business days if the owner of the land agrees, in writing, to the extension.

113 Land surrender requirement

- (1) The chief executive may, by written notice to the owner of the prescribed land relating to the relevant application, require the owner to surrender all or part of the prescribed land (the *required land*) to the State for coastal management if—
- (a) the chief executive is satisfied the required land should be surrendered for coastal management; and
 - (b) the Minister approves the proposed requirement.
- (2) A requirement under subsection (1) is a *land surrender requirement*.
- (3) A land surrender requirement must—
- (a) be given to the owner within 30 business days after the proposed surrender notice is given to the owner; and
 - (b) state the following—
 - (i) details of the required land;
 - (ii) the day the Minister approved the making of the requirement;
 - (iii) that the required land must be surrendered to the State when the plan for reconfiguring the lot to which the relevant application relates is registered under the *Land Title Act 1994*;

[s 145]

- (iv) the effect of section 114.
- (4) The chief executive may extend the period mentioned in subsection (3)(a) by not more than 10 business days if the owner agrees, in writing, to the extension.
- (5) The chief executive must give a copy of the land surrender requirement to—
 - (a) if the applicant for the relevant application is not the owner of the prescribed land—the applicant; and
 - (b) the planning chief executive; and
 - (c) if the relevant application is a development application and the planning chief executive is not the assessment manager for the application—the assessment manager for the application; and
 - (d) if the relevant application is a change application and the planning chief executive is not the responsible entity for the application—the responsible entity for the application.
- (6) This section is subject to section 115.

114 Effect on decisions or actions if relevant application is refused or development approval stops having effect

An action taken, or decision made, by the chief executive under this subdivision in relation to a relevant application is of no effect, and is taken to have never been made or taken, if—

- (a) the application is refused; or
- (b) any development approval given for the application stops having effect.

115 Land surrender requirement can not be given in particular circumstances

- (1) A land surrender requirement can not be given in relation to a relevant application if—
 - (a) the lot to be reconfigured was part of another lot that has been the subject of—
 - (i) a development application or change application; or
 - (ii) an application to rezone land under the repealed *Local Government (Planning and Environment) Act 1990*; and
 - (b) a part of the other lot was surrendered to the State under—
 - (i) a land surrender condition; or
 - (ii) a land surrender requirement; or
 - (iii) the repealed Beach Protection Act, section 41C(6) or 45(7).
- (2) Also, a land surrender requirement can not be given in relation to a relevant application that is a change application if part of the lot to be reconfigured was surrendered to the State under—
 - (a) a land surrender condition included in the development approval to which the change application relates; or
 - (b) a land surrender requirement given in relation to the application for the development approval to which the change application relates.
- (3) In this section—

land surrender condition means a land surrender condition, included in a development approval, under section 110 as in force immediately before the commencement.

[s 146]

115AA Compliance with land surrender requirement

A person to whom the chief executive gives a land surrender requirement under section 113 must comply with the requirement.

Maximum penalty—1665 penalty units.

146 Amendment of s 115A (Applicant may surrender land voluntarily)

Section 115A(1)—

omit, insert—

- (1) The applicant for a relevant application may voluntarily surrender a part of the lot to be reconfigured to the State for coastal management if the part is in a coastal management district.

147 Amendment of s 115B (Surrendered land to be dedicated for coastal management purposes)

Section 115B(1), ‘condition’—

omit, insert—

requirement

148 Amendment of s 116 (Canals—surrender to the State)

Section 116(1), ‘application to reconfigure’—

omit, insert—

approval for reconfiguring

149 Omission of ch 2, pt 6, div 4, sdiv 2 (Development applications involving artificial waterways)

Chapter 2, part 6, division 4, subdivision 2—

omit.

150 Omission of ch 2, pt 6, div 5 (Exemption certificates)

Chapter 2, part 6, division 5—

omit.

151 Amendment of s 123 (Right to occupy and use land on which particular tidal works were, or are to be, carried out)

(1) Section 123(4), from ‘are’—

omit, insert—

is accepted development under the Planning Act.

(2) Section 123(5)(a), from ‘in accordance’ to ‘code’—

omit.

(3) Section 123(6), definition *IDAS code*—

omit.

152 Insertion of new ch 5, pt 2A

After section 164—

insert—

**Part 2A Planning and
Environment Court
declarations**

**164A Planning and Environment Court may make
declarations**

- (1) Any person may bring a proceeding in the Planning and Environment Court for a declaration about a matter done, to be done or that should have been done, for chapter 2, part 3, division 2.
- (2) The court may also make an order about any declaration it makes under subsection (1).
- (3) This section does not limit part 2.

[s 153]

153 Amendment of s 167 (Regulation-making power)

(1) Section 167(2)(b)—

omit.

(2) Section 167(2)(c) to (i)—

renumber as section 167(2)(b) to (h).

(3) Section 167(3)—

omit.

(4) Section 167(4) and (5)—

renumber as section 167(3) and (4).

(5) Section 167(6)—

omit, insert—

(5) A regulation may, for the Planning Act, state—

(a) assessment benchmarks for the assessment of assessable development under that Act, other than an assessment carried out by the planning chief executive; and

(b) the requirements that operational work that is tidal works, or work in a coastal management district, must comply with to be categorised as accepted development under that Act.

154 Amendment of s 177 (Relationship to particular Planning Act provisions)

Section 177(2)—

omit, insert—

(2) The Planning Act, chapter 3, part 5, division 2, subdivision 2 and divisions 3 and 4 apply to a deemed approval.

155 Amendment of s 189 (Particular permits under the Beach Protection Act)

Section 189(2), ‘section 341(1)’—

omit, insert—

section 85(1)

156 Amendment of s 193 (Responsible entity for request to change deemed approval)

(1) Section 193, ‘Planning Act’—

omit, insert—

repealed Planning Act

(2) Section 193—

insert—

(6A) Despite subsection (1), this section does not apply to a deemed approval mentioned in section 177 on or after the day section 206 commences.

(3) Section 193(7)—

insert—

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

(4) Section 193(6A) and (7)—

renumber as section 193(7) and (8).

157 Amendment of s 194 (Continuing application of particular provisions)

(1) Section 194(2), ‘Planning Act’—

omit, insert—

repealed Planning Act

(2) Section 194(3)—

insert—

[s 158]

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

158 Amendment of s 204 (Development applications not decided on commencement that relate to tidal works)

Section 204(3), definition *decided*, ‘Planning Act’—

omit, insert—

repealed *Sustainable Planning Act 2009*

159 Insertion of new ch 6, pt 8

Chapter 6—

insert—

**Part 8 Transitional provisions
for Planning
(Consequential) and
Other Legislation
Amendment Act 2016**

205 Definitions for part

In this part—

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

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

206 Change application for deemed approval

- (1) This section applies to a deemed approval mentioned in section 177 if the holder of the approval makes a change application under the

-
- Planning Act for a change to the deemed approval.
- (2) The chief executive must decide who will be the responsible entity for the change application for the Planning Act.
 - (3) Subsection (2) applies despite the Planning Act, section 78(3), but subject to subsection (5).
 - (4) For the Planning Act—
 - (a) the holder must also give a copy of the change application to any entity that would, if a development application had been made for the deemed approval, be the referral agency for the application; and
 - (b) the entity is taken to be a referral agency for the change application.
 - (5) The local government may elect not to be the responsible entity for the change application.
 - (6) Subsection (7) applies if—
 - (a) the local government decides not to be the responsible entity for the change application; and
 - (b) the change application is for a minor change to the approval, as defined in the Planning Act.
 - (7) The holder is not required to give the local government a copy of the change application under the Planning Act, section 80.

207 Existing particular development applications

- (1) Subsection (2) applies to an existing development application to which former section 100A(4) applied.

[s 160]

- (2) Former section 100A(4) and (5) continues to apply in relation to the application, as if the amending Act had not been enacted.
- (3) Subsection (4) applies to an existing development application mentioned in former section 103.
- (4) Former chapter 2, part 6 continues to apply in relation to the application, as if the amending Act had not been enacted.
- (5) In this section—
existing development application means a development application made under the repealed *Sustainable Planning Act 2009* to which the Planning Act, section 287 applies.

208 Development approval that includes a land surrender condition

- (1) This section applies to a development approval that includes a land surrender condition under former section 110.
- (2) Former section 115B continues to apply in relation to the condition as if the amending Act had not been enacted.

160 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *applicable code, assessable development, assessment manager, concurrence agency, currency period, development approval, development permit, land surrender condition, Planning Act, Planning Minister, planning scheme, preliminary approval* and *referral agency*—
omit.
- (2) Schedule—
insert—

assessable development means development categorised as assessable development under the Planning Act.

assessment manager, for a development application, means the assessment manager for the application under the Planning Act.

change application, for chapter 2, part 6, division 3, see section 109.

currency period, for a development approval, means the period at the end of which the approval lapses under the Planning Act.

development approval means a development approval under the Planning Act.

development permit means a development permit under the Planning Act.

land surrender requirement see section 113(2).

Planning Act means the *Planning Act 2016*.

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

planning scheme means a planning scheme under the Planning Act.

prescribed land, for chapter 2, part 6, division 3, subdivision 2, see section 110(b).

proposed surrender notice see section 111(2).

reconfiguring a lot see the Planning Act, schedule 2.

referral agency see the Planning Act, section 54(2).

relevant application, for chapter 2, part 6, division 3, see section 109.

163 Amendment of sch 2 (Dictionary)

Schedule 2, definition *Planning Act*—

omit, insert—

Planning Act means the *Planning Act 2016*.

Part 16 Amendment of Disaster Management Act 2003

164 Act amended

This part amends the *Disaster Management Act 2003*.

165 Amendment of s 20B (Chairperson may give notice about deemed approvals under Sustainable Planning Act)

(1) Section 20B, heading, ‘Sustainable’—

omit.

(2) Section 20B(1)(b) and (6)(b) and (c), ‘Sustainable’—

omit.

(3) Section 20B(2), ‘provisions do not apply to a development application’—

omit, insert—

provision does not apply to a development application, or change application,

(4) Section 20B(5)(b), after ‘development applications’—

insert—

and change applications

(5) Section 20B(6)(a), ‘provisions are’—

omit, insert—

[s 166]

provision is

(6) Section 20B(7)—

omit, insert—

(7) In this section—

change application means a change application under the Planning Act, other than a change application for a minor change to a development approval, as defined in that Act.

deemed approval provision means the Planning Act, section 64.

development application means a development application under the Planning Act.

Planning Act means the *Planning Act 2016*.

relevant local government, for a disaster situation, means a local government in whose local government area the declared area, or part of the declared area, for the disaster situation is situated.

166 Insertion of new pt 14, div 3, sdiv 3

After section 180—

insert—

Subdivision 3 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

181 Notices about deemed approvals for existing development applications

- (1) This section applies to an existing development application mentioned in former section 20B(2).
- (2) The chairperson of the State group may give a written notice under former section 20B(2) for

the application as if the amending Act had not been enacted.

- (3) If, before the commencement, a notice (an *existing notice*) was given under former section 20B(2) for the application, the notice continues in effect as if the amending Act had not been enacted.
- (4) Former section 20B(4) to (6) continues to apply in relation to a notice given under subsection (2) or an existing notice, as if the amending Act had not been enacted.
- (5) 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 2016*, section 287 applies.

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

Part 17

Amendment of Economic Development Act 2012

167 Act amended

This part amends the *Economic Development Act 2012*.

[s 168]

168 Amendment of s 34 (Declaration)

Section 34(2)(b)(iii), ‘Sustainable’—
omit.

169 Amendment of s 37 (Declaration)

Section 37(2)(b)(iii), ‘Sustainable’—
omit.

169A Amendment of s 40C (Declaration of PDA-associated development)

(1) Section 40C(2)(a), ‘Sustainable’—
omit.

(2) Section 40C(5), definition *development infrastructure*—
omit, insert—

development infrastructure see the Planning Act, schedule 2.

170 Amendment of s 41 (Cessation of provisional priority development area)

(1) Section 41(3), ‘Sustainable’—
omit.

(2) Section 41(4), ‘Sustainable Planning Act, section 117 does’—
omit, insert—

Planning Act, sections 18, 20, 22 and 23 do

171 Amendment of s 42K (Effect of planning instrument change)

(1) Section 42K(1), ‘Sustainable’—
omit.

- (2) Section 42K(2), ‘Sustainable Planning Act, section 117 does’—

omit, insert—

Planning Act, sections 18, 20, 22 and 23 do

172 Amendment of ch 3, pt 2, div 4, hdg (Relationship with Sustainable Planning Act)

Chapter 3, part 2, division 4, heading, ‘Sustainable’—

omit.

173 Amendment of s 44 (Existing SPA development applications)

- (1) Section 44, heading—

omit, insert—

44 Existing development applications and change applications under Planning Act

- (2) Section 44(1)(a)—

omit, insert—

- (a) a development application under the Planning Act had been made for land in the area; and

- (3) Section 44—

insert—

- (1A) This section also applies if, immediately before the declaration of an area as a priority development area—

- (a) a change application had been made under the Planning Act to change a development approval under that Act—

- (i) that already approves development in the priority development area; or

[s 174]

- (ii) to approve development in the priority development area, if the approval does not already approve development in the priority development area; and
 - (b) the application had not lapsed under that Act; and
 - (c) the application had not been decided.
- (4) Section 44(2), ‘Sustainable’—
omit.
- (5) Section 44(1A) and (2)—
renumber as section 44(2) and (3).

174 Amendment of s 45 (Existing SPA development approvals)

- (1) Section 45, heading—
omit, insert—
 - 45 Existing development approvals under Planning Act**
- (2) Section 45, ‘an SPA development approval’—
omit, insert—
 - a development approval under the Planning Act

175 Replacement of s 47 (Community infrastructure designations)

Section 47—

omit, insert—

47 Designation of premises for development of infrastructure under Planning Act

- (1) To remove any doubt, it is declared that—
 - (a) the planning Minister or a local government may make a designation under the Planning

Act, chapter 2, part 5 of premises in, or partly in, a priority development area; and

- (b) a designation of premises under the Planning Act that is in force immediately before all or part of the premises are in a priority development area, continues in force despite the priority development area taking effect.

- (2) In this section—

planning Minister means the Minister administering the Planning Act.

176 Amendment of s 48 (Conversion of PDA development approval to SPA development approval)

- (1) Section 48, heading, ‘SPA development approval’—

omit, insert—

development approval under Planning Act

- (2) Section 48(2), ‘an SPA development approval’—

omit, insert—

a development approval under the Planning Act

177 Amendment of s 49 (Outstanding PDA development applications)

Section 49(3), ‘an SPA development approval’—

omit, insert—

a development approval under the Planning Act

178 Amendment of s 50 (Provisions for converted SPA development approval)

- (1) Section 50, heading, ‘SPA development approval’—

omit, insert—

[s 178]

development approval under Planning Act

- (2) Section 50(1), ‘an SPA development approval’—
omit, insert—
a development approval under the Planning Act
- (3) Section 50(2), ‘conditions of the SPA development approval’—
omit, insert—
development conditions of the development approval under the Planning Act
- (4) Section 50(3)—
omit, insert—
(3) Despite the Planning Act, section 228, there is no appeal right under the Planning Act to the Planning and Environment Court for the development approval or the conditions, or a decision relating to the approval or conditions.
- (5) Section 50(5) and (6)—
omit, insert—
(5) The enforcement authority under the Planning Act for the development approval is taken to be the entity that would have been the enforcement authority under that Act if—
(a) the land to which the approval relates had never been in a priority development area; and
(b) for an approval for PDA-associated development for the priority development area—the development had never been PDA-associated development for the priority development area; and
(c) a development application under the Planning Act had been made for the development approval when the PDA

development application for the PDA development approval was made.

- (6) A proceeding under the *Planning and Environment Court Act 2016*, section 11 seeking a declaration in relation to the development approval or the conditions, or a decision relating to the approval or conditions, may be started only by the entity that is, for the Planning Act, the enforcement authority under subsection (5) for the approval.

179 Amendment of s 51 (Lawful uses in priority development area)

Section 51, ‘Sustainable’—
omit.

179A Amendment of s 51A (Lawful uses relating to PDA-associated development)

Section 51A(2), ‘Sustainable’—
omit.

180 Amendment of s 57 (Content of development scheme)

Section 57(5)(b)—
omit, insert—

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

181 Amendment of s 71 (Development scheme prevails over particular instruments)

Section 71(b)—

[s 182]

omit, insert—

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

182 Amendment of s 77 (Exemption for particular SPA development approvals and community infrastructure designations)

- (1) Section 77, heading—

omit, insert—

77 Exemption for particular development approvals and designations under Planning Act

- (2) Section 77(1)(a), ‘an SPA development approval’—

omit, insert—

a development approval under the Planning Act

- (3) Section 77(1)(b)—

omit, insert—

- (b) a designation under the Planning Act of premises in, or partly in, a priority development area.

- (4) Section 77(2), ‘community infrastructure’—

omit.

183 Amendment of s 80 (Amendment of relevant development instrument does not affect existing SPA or PDA development approval)

- (1) Section 80, heading, ‘SPA’—

omit, insert—

development approval under Planning Act

- (2) Section 80(1)(a), ‘an SPA development approval’—
omit, insert—

a development approval under the Planning Act

184 Amendment of s 81 (Development or use carried out in emergency)

- (1) Section 81(1)(a)(iii), ‘community’—
omit.

- (2) Section 81—
insert—

- (3) In this section—

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

Example of an action not done because of an emergency—

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

185 Amendment of s 86 (Restrictions on granting approval)

- Section 86(1)(a), ‘an SPA preliminary approval’—
omit, insert—

a preliminary approval under the Planning Act

186 Amendment of s 87 (Matters to be considered in making decision)

- (1) Section 87(1)(f), ‘any SPA preliminary approval’—
omit, insert—

[s 187]

any preliminary approval under the Planning Act

(2) Section 87(2A)—

omit, insert—

(2A) In deciding an application for PDA-associated development for a priority development area, MEDQ may, subject to section 86, give the weight it considers appropriate to any of the following instruments that would, under the Planning Act, have regulated the development if it were not PDA-associated development for the area—

- (a) a planning instrument that applies to the relevant land;
- (b) assessment benchmarks for the development prescribed by regulation under the Planning Act;
- (c) assessment benchmarks for the development made under another Act for the Planning Act.

187 Amendment of s 90 (Right of appeal against particular conditions)

(1) Section 90(4)—

omit, insert—

- (4) An appellant starts an appeal by lodging, with the registrar of the Planning and Environment Court, a written notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (4A) The *Planning and Environment Court Act 2016*, part 5 applies, with necessary changes, to the appeal as if—

-
- (a) the appeal were a Planning Act appeal under that Act; and
 - (b) the entity were the only other party to the appeal.
- (2) Section 90(5)(a)—
omit, insert—
- (a) the appellant must, as soon as practicable after giving the entity the notice of appeal, give MEDQ a copy of the notice; and
- (3) Section 90(4A) to (6)—
renumber as section 90(5) to (7).

188 Amendment of s 97 (Provision for enforcement of PDA development conditions)

Section 97(1)—

omit, insert—

- (1) If there is a nominated assessing authority for a PDA development condition imposed on a PDA development approval, the Planning Act, chapter 5, part 3, and any other Act mentioning a development approval under the Planning Act, applies to the condition as if—
 - (a) the PDA development approval were a development approval under the Planning Act; and
 - (b) the nominated assessing authority were an enforcement authority under the Planning Act for development under the PDA development approval; and
 - (c) a reference in the Planning Act, chapter 5, part 3, or the other Act, to a development offence under the Planning Act were a reference to a PDA development offence.

[s 189]

189 Amendment of s 100 (When approval lapses generally)

- (1) Section 100(4)(a), ‘4 years’—

omit, insert—

6 years

- (2) Section 100(5)(a), (b) and (c)—

omit, insert—

(a) 4 years from the day of effect; or

(b) if the approval states a different period—the stated period.

- (3) Section 100(6) to (8)—

omit.

190 Replacement of s 104 (Plans of subdivision)

Section 104—

omit, insert—

104 Plans of subdivision

(1) This section applies to a plan of subdivision if, under another Act, the plan requires MEDQ’s approval, in whatever form, before the plan can be registered or otherwise recorded under that Act.

(2) In deciding whether to approve the plan of subdivision, MEDQ must comply with the process prescribed by regulation for approving plans of subdivision.

(3) In this section—

authorised electricity entity means an authorised electricity entity—

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

(b) as defined in section 116(8) of the *Electricity Act 1994*.

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

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

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

[s 191]

- (b) other than a plan of survey lodged under the *Acquisition of Land Act 1967*, section 12A as a result of a reconfiguration relating to an acquisition of land mentioned in paragraph (a)(i).

191 Amendment of s 109 (Powers about enforcement orders)

- (1) Section 109(4), note, ‘Sustainable Planning Act, section 457’—

omit, insert—

Planning and Environment Court Act 2016, part 6

- (2) Section 109(5), definition *environment*—

omit, insert—

environment see the *Environmental Protection Act 1994*, section 8.

192 Amendment of s 110 (Offence to contravene enforcement order)

Section 110, note, paragraph (b)—

omit, insert—

- (b) the *Planning and Environment Court Act 2016*, section 36.

193 Amendment of s 123 (Application of local government entry powers for MEDQ’s functions or powers)

Section 123(6), definition *lot*, ‘Sustainable Planning Act, section 10’—

omit, insert—

Planning Act, schedule 2

194 Amendment of s 127 (Direction to government entity or local government to accept transfer)

Section 127(5), ‘Sustainable Planning Act, section 678’—

omit, insert—

Planning Act, section 158

196 Amendment of s 177 (Definitions for ch 6)

Section 177—

insert—

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

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

197 Amendment of s 195 (Relationship with Sustainable Planning Act)

(1) Section 195, heading, before ‘Sustainable’—

insert—

repealed

(2) Section 195—

insert—

(8) In this section—

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

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

[s 198]

198 Amendment of s 204 (Plans of subdivision requiring former ULDA's approval)

Section 204(1), before 'Sustainable'—

insert—

repealed

199 Amendment of s 213 (Existing directions to government entity or local government to accept transfer)

Section 213(3), before 'Sustainable'—

insert—

repealed

200 Insertion of new ch 7, pt 2

After section 219—

insert—

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

220 Definitions for part

In this part—

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

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

221 Existing SPA development application made before priority development area declared

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

existing SPA development application means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

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

222 Existing PDA development application for PDA-associated development

- (1) This section applies to a PDA development application for PDA-associated development for a priority development area made, but not decided, before the commencement.

[s 201]

- (2) Former section 87(2A) continues to apply in relation to the application as if the amending Act had not been enacted.

223 Unfinished compliance assessment for plan of subdivision

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

224 Existing PDA development approval

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

201 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *commencement*, *community infrastructure designation*, *material change of use*, *Planning and Environment Court*, *planning scheme*, *reconfiguring a lot*, *SPA development application*, *SPA development approval*, *SPA preliminary approval* and *Sustainable Planning Act*—
omit.
- (2) Schedule 1—
insert—

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

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

Planning Act means the *Planning Act 2016*.

reconfiguring a lot see the Planning Act, schedule 2.

- (3) Schedule 1, definition *building work*, from ‘Sustainable’—
omit, insert—

Planning Act.

- (4) Schedule 1, definition *infrastructure agreement*, ‘Sustainable Planning Act, schedule 3’—

omit, insert—

Planning Act, section 149

- (5) Schedule 1, definition *lawful use*, paragraph (b), ‘or the Sustainable Planning Act’—

omit, insert—

, the Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997*

- (6) Schedule 1, definition *operational work*, ‘Sustainable Planning Act, section 10’—

omit, insert—

Planning Act, schedule 2

- (7) Schedule 1, definition *planning instrument*, ‘Sustainable’—

omit.

- (8) Schedule 1, definition *relevant development*, ‘or an SPA development approval’—

omit, insert—

, development approval under the Planning Act

[s 202]

- (9) Schedule 1, definition *relevant land*, paragraph (b), ‘an SPA development approval’—

omit, insert—

a development approval under the Planning Act

Part 18 Amendment of Electricity Act 1994

202 Act amended

This part amends the *Electricity Act 1994*.

203 Replacement of s 112A (Clearing native vegetation for operating works on freehold land)

Section 112A—

omit, insert—

112A Clearing vegetation on freehold land for operating works

- (1) This section applies despite the Planning Act.
- (2) Clearing vegetation on freehold land is accepted development for the Planning Act if the clearing—
 - (a) is for operating works for a transmission entity or distribution entity; and
 - (b) is on premises the subject of a designation under the Planning Act for a type of infrastructure that is, or includes, the operating works.
- (3) In this section—

Planning Act means the *Planning Act 2016*.

vegetation see the *Vegetation Management Act 1999*, section 8.

Part 19 Amendment of Environmental Offsets Act 2014

204 Act amended

This part amends the *Environmental Offsets Act 2014*.

205 Amendment of s 5 (Relationship with particular Acts)

(1) Section 5(2)(a), ‘*Sustainable Planning Act 2009*’—
omit, insert—

Planning Act

(2) Section 5(3), note, fourth dot point—
omit.

206 Amendment of s 13B (What this part is about)

Section 13B(2)(b), ‘section 325(1)’—
omit, insert—

section 62

207 Amendment of s 16 (Conditions that apply under this Act to authority)

Section 16(5), ‘*Sustainable Planning Act 2009*, section 347(1)(b) and (c)’—
omit, insert—

Planning Act, section 66(1)(a) and (c)

[s 208]

208 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *Planning Act*—

omit.

- (2) Schedule 2—

insert—

assessment manager see the Planning Act, section 48(1).

Planning Act means the *Planning Act 2016*.

referral agency see the Planning Act, section 54(2).

- (3) Schedule 2, definition *administering agency*, paragraph (a)(i)—

omit, insert—

- (i) if the chief executive of the department in which the Planning Act is administered has nominated an entity to be an enforcement authority under that Act for development to which an offset condition applies—the nominated entity; or

- (4) Schedule 2, definition *administering agency*, paragraph (a)(ii), ‘concurrency’—

omit, insert—

referral

Part 20 **Amendment of Environmental Protection Act 1994**

209 Act amended

This part amends the *Environmental Protection Act 1994*.

210 Amendment of s 115 (Development application taken to be application for environmental authority in particular circumstances)

Section 115(1)(b)(ii)—

omit, insert—

- (ii) is categorised as assessable development under a regulation made under the Planning Act.

211 Amendment of s 120 (Application for environmental authority can not be made in particular circumstances)

Section 120(1)(b)—

omit, insert—

- (b) neither of the following applications has been made—
 - (i) a development application for a development permit mentioned in paragraph (a);
 - (ii) a change application to change a development permit to authorise a material change of use of premises relating to the activity, if the permit does not already authorise the material change of use.

[s 212]

212 Amendment of s 166 (When does decision stage start—application relating to development applications)

- (1) Section 166(2)(a), from ‘decision stage’—

omit, insert—

decision-making period for the development application starts; or

- (2) Section 166(2)(b)—

omit, insert—

- (b) if the administering authority or the planning chief executive is a referral agency for the development application—the day the referral agency’s response period for the application starts.

213 Amendment of s 169 (When decision must be made—particular applications)

- (1) Section 169(2), from ‘a decision’—

omit, insert—

the administering authority must make a decision under subdivision 2 within the decision-making period for the development application, including any extension of the period.

- (2) Section 169(3)—

omit, insert—

- (3) If the administering authority or the planning chief executive is a referral agency for the development application, the administering authority must make a decision under subdivision 2 within the referral agency’s response period for the development application, including any extension of the period.

214 Amendment of s 173 (When particular applications must be refused)

(1) Section 173(2)—

omit, insert—

(2) Subsection (3) applies to a development application if, under section 115, the application is taken to also be an application for an environmental authority and either of the following applies—

(a) the administering authority or planning chief executive is a referral agency for the development application and directs the assessment manager for the application to—

(i) refuse the application; or

(ii) give any development approval only as a preliminary approval;

(b) the administering authority or planning chief executive is the assessment manager for the development application and decides to—

(i) refuse the application; or

(ii) give a preliminary approval even though the development application sought a development permit.

(2) Section 173—

insert—

(5) In this section—

preliminary approval means a preliminary approval under the Planning Act.

215 Amendment of s 195 (Issuing environmental authority)

Section 195(c)(ii)—

[s 216]

omit, insert—

- (ii) if the administering authority is a referral agency for the development application—when the administering authority gives its referral agency’s response under the Planning Act to the applicant for the development application; or
- (iii) if the planning chief executive is a referral agency for the development application—within 5 business days after the planning chief executive gives its referral agency’s response under the Planning Act to the applicant for the development application; or
- (iv) if the planning chief executive is the assessment manager for the development application—within 5 business days after the planning chief executive gives the applicant a decision notice under the Planning Act for the development application; or

216 Amendment of s 225 (Amendment application can not be made in particular circumstances)

Section 225(b)—

omit, insert—

- (b) a development permit for a material change of use of premises is necessary under the Planning Act for the carrying out of the changed activity; and
- (c) neither of the following applications has been made under the Planning Act—
 - (i) a development application for a development permit mentioned in paragraph (b);
 - (ii) a change application to change a development permit to authorise a material change of use of premises in relation to the changed activity.

217 Amendment of s 332 (Administering authority may require draft program)

Section 332(1), from ‘program’—

omit, insert—

program as a condition of an environmental authority.

218 Amendment of s 338 (Criteria for deciding draft program)

Section 338(3)—

omit.

219 Amendment of s 370 (Definitions for pt 8)

Section 370, definition *compliance permit*—

omit.

220 Omission of s 382 (Compliance permit)

Section 382—

omit.

221 Amendment of s 388 (Application of sdiv 2)

Section 388(1)(a) and (b)—

omit, insert—

- (a) a site investigation report for relevant land is required to be prepared under an investigation notice for the land; or
- (b) a validation report for relevant land is required to be prepared under a clean-up notice for the land; or

[s 222]

222 Amendment of s 580 (Regulation-making power)

Section 580(4)—

omit, insert—

(4) Also, a regulation may prescribe the following—

- (a) assessment benchmarks for the Planning Act for the assessment of a prescribed ERA under that Act, other than an assessment carried out by the planning chief executive;
- (b) for the Planning Act, the matters a referral agency other than the planning chief executive—
 - (i) must or may assess a development application for a prescribed ERA against; or
 - (ii) must or may assess a development application for a prescribed ERA having regard to.

223 Amendment of s 616ZB (End of environmental authority)

Section 616ZB(b), ‘section 10(1)’—

omit, insert—

schedule 2

224 Amendment of s 624 (Effect of commencement on particular approvals)

Section 624(2)(b)(ii), ‘section 10(1)’—

omit, insert—

schedule 2

225 Insertion of new ch 13, pt 24

Chapter 13—

insert—

Part 24 Transitional provisions for Planning (Consequential) and Other Legislation Amendment Act 2016

740 Definitions for part

In this part—

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

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

pre-amended Act means this Act as in force immediately before the commencement.

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

741 Existing development application relating to prescribed ERA

- (1) This section applies to an existing development application mentioned in former section 115.
- (2) The pre-amended Act continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

[s 226]

742 Compliance permits given under repealed Planning Act

- (1) This section applies to a compliance permit given under the repealed Planning Act before or after the commencement, if—
 - (a) an auditor gives the administering authority a copy of the compliance permit; and
 - (b) the administering authority had not complied with former section 382(2) for the compliance permit before the commencement.
- (2) Former section 382(2) continues to apply in relation to the compliance permit as if the amending Act had not been enacted.

743 Existing development condition requiring a transitional environmental program

- (1) This section applies to a development condition—
 - (a) mentioned in former section 332(1)(b); and
 - (b) that was in force immediately before the commencement.
- (2) The condition continues in force, and the pre-amended Act continues to apply in relation to the condition, as if the amending Act had not been enacted.

226 Amendment of sch 1 (Exclusions relating to environmental nuisance or environmental harm)

Schedule 1, section 3(f), '*Sustainable Planning Act 2009*'—

omit, insert—

Planning Act

227 Amendment of sch 2 (Original decisions)

Schedule 2, part 2, division 4, entries for section 382(2)—
omit.

228 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *advice agency*, *assessment manager*, *compliance permit*, *concurrence agency*, *Planning Act* and *referral agency*—

omit.

(2) Schedule 4—

insert—

assessment manager, for a development application, means the person who is the assessment manager under the Planning Act for the application.

change application means a change application under the Planning Act.

decision-making period, for a development application, means the period allowed under the development assessment rules under the Planning Act for the assessment manager to decide the application.

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

Planning Act means the *Planning Act 2016*.

referral agency see the Planning Act, section 54(2).

referral agency's response period, for a development application, means the period stated in the development assessment rules for complying with the Planning Act, section 56(4) for the application.

(3) Schedule 4, definition *development*, 'section 7'—

[s 234]

Part 23 **Amendment of Fisheries Act 1994**

234 Act amended

This part amends the *Fisheries Act 1994*.

235 Amendment of s 22 (Integrated development assessment system regulations and guidelines)

(1) Section 22, heading—

omit, insert—

22 Regulation and guidelines about particular chief executive's powers or functions

(2) Section 22(1), 'under the Planning Act'—

omit, insert—

under this Act or the Planning Act

(3) Section 22(1)(b) to (e)—

omit.

(4) Section 22(1)(f)—

renumber as section 22(1)(b).

(5) Section 22(2)—

omit.

(6) Section 22(3)—

renumber as section 22(2).

236 Insertion of new pt 4

After section 22—

insert—

Part 4 Accepted development requirements

23 Accepted development requirements for Planning Act

A regulation may, for the Planning Act, state the requirements (the *accepted development requirements*) that fisheries development must comply with to be categorised as accepted development under that Act.

237 Amendment of s 52 (Things authorised by authorities)

Section 52(4)(b), note—

omit, insert—

Note—

See also section 76T and the Planning Act, section 162.

238 Amendment of s 76A (Application of sdiv 1)

Section 76A(a) and (b), from ‘assessable’ to ‘section 232(1)’—

omit, insert—

development categorised as assessable development under a regulation made under the Planning Act

239 Amendment of s 76C (Nature of fisheries development approval for which resource allocation authority required)

Section 76C(2), ‘section 245 of the Planning Act’—

omit, insert—

the Planning Act, section 73

[s 240]

240 Omission of pt 5, div 3A, sdiv 2 (Assessment of development applications for fisheries development approval generally)

Part 5, division 3A, subdivision 2—

omit.

241 Replacement of pt 5, div 3A, sdiv 3, hdg (Assessment of development applications for construction or raising of waterway barrier works)

Part 5, division 3A, subdivision 3, heading—

omit, insert—

Subdivision 3 Fish movement exemption notices

242 Omission of s 76G (When chief executive may approve applications relating to waterway barrier works)

Section 76G—

omit.

243 Replacement of pt 5, div 3A, sdiv 4, hdg (Conditions on fisheries development approvals generally)

Part 5, division 3A, subdivision 4, heading—

omit, insert—

Subdivision 4 Environmental offset conditions on fisheries development approvals

244 Amendment of s 76H (Relationship between sdiv 4 and Planning Act)

Section 76H, ‘chapter 6, part 5, division 6 of the Planning Act’—

omit, insert—

the Planning Act, chapter 3, part 3, division 3

245 Omission of s 76I (Conditions on fisheries development approvals generally)

Section 76I—

omit.

246 Amendment of s 76IA (Environmental offset conditions)

Section 76IA(1), ‘sections 346 and 346A’—

omit, insert—

section 65

247 Omission of ss 76J, 76K and 76L

Sections 76J, 76K and 76L—

omit.

248 Omission of pt 5, div 3A, sdiv 5 (Amending conditions on fisheries development approvals)

Part 5, division 3A, subdivision 5—

omit.

249 Amendment of s 76S (Purpose of sdiv 6)

Section 76S, note—

omit, insert—

Note—

See the Planning Act, section 224(1) for the application of provisions, of an Act other than the Planning Act, about particular matters that the Planning Act also has provisions about.

[s 250]

250 Amendment of s 76T (Penalties for carrying out assessable development without permit)

(1) Section 76T(2), from ‘section 578(1)’ to ‘permit is—’—

omit, insert—

section 162(1), the maximum penalty for an offence against the section is—

(2) Section 76T(2)(a), (b) and (c), from ‘for assessable’ to ‘section 232(1)’—

omit, insert—

for development categorised as assessable development under a regulation made under the Planning Act

251 Amendment of s 76U (Penalties for noncompliance with particular development approvals)

Section 76U(2), ‘section 580(1)’—

omit, insert—

section 163

252 Amendment of s 76V (Additional requirement for development carried out in emergency)

Section 76V(1) and (2)—

omit, insert—

(1) This section applies to a person carrying out an activity that is fisheries development if the Planning Act, section 165(3) or (4) applies to the activity.

(2) For the Planning Act, section 165(4)(b) and (6)(a)(ii), the person must give notice that the person has been carrying out the activity to the chief executive as soon as reasonably practicable after starting the activity.

- (3) In this section—
activity see the Planning Act, section 165(1).

253 Amendment of s 88B (Carrying out particular development without resource allocation authority)

- (1) Section 88B(1)(a), from ‘the following’ to ‘section 232(1)—’—

omit, insert—

the following development categorised as assessable development under a regulation made under the Planning Act—

- (2) Section 88B(1)(b), from ‘self-assessable’ to ‘section 232(1)’—

omit, insert—

development categorised as accepted development under a regulation made under the Planning Act

- (3) Section 88B(4), definition *relevant person*—

omit, insert—

relevant person, for development, means—

- (a) the chief executive; and
(b) if the development is assessable development—the person who would be the assessment manager if a development application were made for the development.

254 Amendment of s 145 (Entry to places)

- (1) Section 145(1)(c), ‘, or a self-assessable development code,’—

omit, insert—

or an accepted development requirement

[s 255]

(2) Section 145(1)(c)(ii), ‘code,’—

omit, insert—

accepted development requirement

255 Amendment of s 185 (Who may apply for review)

(1) Section 185(2)(b)—

omit.

(2) Section 185(2)(c) to (g)—

renumber as section 185(2)(b) to (f).

256 Amendment of s 223 (Regulation-making power)

(1) Section 223(2)(a)—

omit, insert—

(a) prescribe the fees payable under this Act; or

(aa) state, for the Planning Act, the types of development applications, and change applications, relating to fisheries development that is building work that do not require referral to a referral agency under that Act; or

(2) Section 223(2)(aa) to (c)—

renumber as section 223(2)(b) to (d).

(3) Section 223—

insert—

(3) In this section—

change application—

(a) means a change application under the Planning Act; but

- (b) does not include a change application for a minor change to a development approval, as defined in that Act.

257 Amendment of s 240 (Definitions for div 4)

Section 240—

insert—

currency period, for a development permit, means the relevant period mentioned in the repealed *Sustainable Planning Act 2009*, section 341 in relation to the permit.

258 Amendment of s 242 (Continuing effect of existing approvals for waterway barrier works)

Section 242(2)(c), note—

omit.

259 Amendment of s 244 (Applications in progress for particular relevant authorities)

- (1) Section 244(3), before ‘Planning Act’—

insert—

repealed

- (2) Section 244—

insert—

- (4) In this section—

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

260 Insertion of new pt 12, div 10

Part 12—

insert—

Division 10 Transitional provisions for Planning (Consequential) and Other Legislation Amendment Act 2016

262 Definitions for division

In this division—

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

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

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

263 Existing particular development applications for fisheries development

- (1) This section applies to an existing development application for fisheries development, if the chief executive was the assessment manager or a concurrence agency for the application under the repealed Planning Act.
- (2) The following provisions continue to apply in relation to the application as if the amending Act had not been enacted—
 - (a) former sections 76D and 76G;
 - (b) former part 5, division 3A, subdivision 4.
- (3) A decision of the chief executive about the application can not be reviewed by QCAT.
- (4) In this section—

existing development application means a development application made under the repealed

Planning Act, to which the Planning Act, section 287 applies.

264 Existing appeals—amendment of fisheries development approval conditions

- (1) This section applies if—
 - (a) a person appealed to the Planning and Environment Court before the commencement under former section 76Q(1); and
 - (b) the appeal had not been decided before the commencement.
- (2) The Planning and Environment Court must hear, or continue to hear, and decide the appeal under former sections 76Q and 76R as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.
- (3) To remove any doubt, it is declared that former section 76Q(2), (4) and (5) applies for the appeal.

265 Existing right to appeal—amendment of fisheries development approval conditions

- (1) This section applies if—
 - (a) before the commencement, a person could have appealed to the Planning and Environment Court under former section 76Q(1); and
 - (b) the person has not appealed before the commencement.
- (2) The person may appeal, and the Planning and Environment Court must hear and decide the appeal, under former sections 76Q(1), (2)(a), (3) and (4) and 76R(2), as if the amending Act had not been enacted.

[s 261]

- (3) The *Planning and Environment Court Act 2016*, part 5, with any changes the court considers appropriate, applies to the appeal as if the appeal were a Planning Act appeal under that Act.

261 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *amend*, *applicable code*, *assessable development*, *concurrence agency*, *currency period*, *development application*, *development approval*, *development permit*, *environmental offset condition*, *fisheries development*, *fisheries development approval*, *Planning Act*, *prohibited development* and *self-assessable development*—

omit.

- (2) Schedule—

insert—

accepted development requirements see section 23.

assessable development means development categorised as assessable development under the Planning Act.

development application means a development application under the Planning Act.

development approval means a development approval under the Planning Act.

development permit means a development permit under the Planning Act.

environmental offset see the *Environmental Offsets Act 2014*, section 7(2).

environmental offset condition means a condition of a development approval that requires or otherwise relates to an environmental offset.

fisheries development means development that relates to aquaculture, fisheries resources, fish habitat or waterway barrier works.

fisheries development approval means a development approval for fisheries development if the chief executive, or the chief executive of the department in which the Planning Act is administered, was the assessment manager or a referral agency under that Act for the application for the approval.

Planning Act means the *Planning Act 2016*.

- (3) Schedule, definition *assessment manager*, ‘section 246(1)’—
omit, insert—
section 48(1)
- (4) Schedule, definition *building work*, ‘section 10(1)’—
omit, insert—
schedule 2
- (5) Schedule, definition *material change of use*, ‘section 10(1)’—
omit, insert—
schedule 2
- (6) Schedule, definition *operational work*, ‘section 10(1)’—
omit, insert—
schedule 2

Part 24 **Amendment of Geothermal Energy Act 2010**

262 **Act amended**

This part amends the *Geothermal Energy Act 2010*.

[s 263]

263 Amendment of s 327 (Restriction on carrying out geothermal activities)

Section 327, note 1, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act 2016

Part 25 Amendment of Gold Coast Waterways Authority Act 2012

264 Act amended

This part amends the *Gold Coast Waterways Authority Act 2012*.

265 Amendment of s 4 (Relationship with other Acts)

Section 4(2)(c), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act 2016

Part 25A Amendment of Housing Act 2003

265A Amendment of s 94F (Definitions for div 2B)

(1) Section 94F, definitions *development, Planning Act* and *relevant public housing*—

omit.

(2) Section 94F—

insert—

development means—

- (a) in relation to anything done before the commencement of this definition—development as defined in the repealed *Sustainable Planning Act 2009* immediately before the commencement; or
- (b) in relation to anything done on or after the commencement of this definition—development as defined in the Planning Act from time to time.

Planning Act means the *Planning Act 2016*.

relevant public housing—

- (a) means housing—
 - (i) provided by or for the State or a statutory body representing the State; and
 - (ii) for short or long term residential use; and
 - (iii) that is totally or partly subsidised by the State or a statutory body representing the State; and
 - (b) includes services provided for residents of the housing, if the services are totally or partly subsidised by the State or a statutory body representing the State.
- (3) Section 94F, definition *applicable laws*—
insert—
- (f) the repealed *Sustainable Planning Act 2009*.

269 Amendment of s 15 (Approved scheme regulates development etc. of site)

(1) Section 15(4), ‘Integrated’—

omit.

(2) Section 15—

insert—

(9) In this section—

planning scheme means a planning scheme under the Planning Act.

270 Amendment of s 20 (Effect of revocation)

Section 20(1)(b), from ‘Integrated’—

omit, insert—

Planning Act prescribed for section 90 apply.

271 Amendment of s 72 (Boundary adjustment plan)

Section 72(5)—

omit, insert—

(5) An appeal is started by lodging a written notice of appeal with the registrar of the Planning and Environment Court.

(6) The notice of appeal must be in the approved form and succinctly state the grounds of the appeal.

(7) The *Planning and Environment Court Act 2016*, part 5 applies, with necessary changes, to the appeal as if the appeal were a Planning Act appeal under that Act.

272 Amendment of s 90 (Construction of canals)

Section 90(3), ‘Integrated’—

[s 273]

omit.

273 Amendment of s 96 (Surrender of canal to the State)

Section 96(7), from ‘Integrated’—

omit, insert—

Planning Act prescribed for section 90 apply.

274 Amendment of sch 7 (Dictionary)

(1) Schedule 7, definition *Integrated Planning Act*—

omit.

(2) Schedule 7—

insert—

Planning Act means the *Planning Act 2016*.

Part 28 Amendment of Integrity Act 2009

275 Act amended

This part amends the *Integrity Act 2009*.

276 Amendment of s 42 (Meaning of *lobbying activity* and *contact*)

Section 42(1)(a)(v), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act 2016

Part 29 Amendment of Land Act 1994

277 Act amended

This part amends the *Land Act 1994*.

278 Amendment of s 55D (Registration surrenders deed of grant in trust)

Section 55D(4), '*Sustainable Planning Act 2009*'—
omit, insert—

Planning Act

279 Amendment of s 109A (Simultaneous opening and closing of roads—deed of grant)

Section 109A(4), '*Sustainable Planning Act 2009*'—
omit, insert—

Planning Act

280 Amendment of s 109B (Simultaneous opening and closure of roads—trust land or lease land)

Section 109B(5), '*Sustainable Planning Act 2009*'—
omit, insert—

Planning Act

281 Amendment of s 294B (Building management statement may be registered)

Section 294B(7), definition *building development approval*, from 'or compliance' to '2009,'—
omit, insert—

under the Planning Act

[s 282]

282 Amendment of s 373A (Covenant by registration)

(1) Section 373A(1), ‘Non-freehold land’—

omit, insert—

Subject to this section, non-freehold land

(2) Section 373A(7)—

omit, insert—

(7) Also, the covenant must not—

(a) secure the payment of money, or money’s worth, payable under a condition of a development approval, or an infrastructure agreement, under the Planning Act; or

Note—

See also the Planning Act, section 106.

(b) be inconsistent with a planning scheme under the Planning Act that—

(i) applies to the land the subject of the covenant; and

(ii) is in effect when the document creating the covenant is registered; or

(c) provide for anything capable of being the subject of a document creating an easement.

(7A) Subsection (7)(b) does not apply to a covenant if it was entered into under a condition of a development approval, or an infrastructure agreement, under the Planning Act.

283 Amendment of s 373AB (Compliance with s 373A)

Section 373AB—

insert—

(4) However, the chief executive need not consider whether a document creating or purporting to

create a covenant complies with section 373A(7)(b).

284 Amendment of s 431N (Ability to prosecute under other Acts)

Section 431N(a)—

omit, insert—

- (a) a development offence under the Planning Act or the repealed *Sustainable Planning Act 2009*;

285 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

Planning Act means the *Planning Act 2016*.

Part 30 Amendment of Land Sales Act 1984

286 Act amended

This part amends the *Land Sales Act 1984*.

287 Amendment of s 12 (Requirements for disclosure statement)

Section 12(3), definition *development approval*, paragraph (a)—

omit, insert—

- (a) a development approval under the Planning Act; or

[s 288]

288 Amendment of sch 1 (Dictionary)

(1) Schedule 1, definition *Planning Act*—
omit.

(2) Schedule 1—
insert—

Planning Act means the *Planning Act 2016*.

(3) Schedule 1, definitions *operational work* and *reconfiguring a lot*, ‘section 10(1)’—

omit, insert—

schedule 2

Part 31 Amendment of Land Tax Act 2010

289 Act amended

This part amends the *Land Tax Act 2010*.

290 Amendment of s 55 (Port authority land)

Section 55(3)(a) and (b), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act 2016

Part 32 Amendment of Land Title Act 1994

291 Act amended

This part amends the *Land Title Act 1994*.

292 Amendment of s 50 (Requirements for registration of plan of subdivision)

(1) Section 50(3)(a) and (b)—

omit, insert—

- (a) for a plan that, other than for this subsection, would have required approval by MEDQ—the plan is not a plan of subdivision as defined in the *Economic Development Act 2012*, section 104(3); or
- (b) for a plan that, other than for this subsection, would have required approval by the relevant local government—the plan is not a plan for which a process for approving the plan is provided under the Planning Act.

(2) Section 50(5)—

omit, insert—

- (5) If a plan of subdivision is approved as mentioned in subsection (1)(h) or (i) under the *Economic Development Act 2012*, section 104 or the Planning Act, the plan must be lodged for registration within 6 months after the approval.

293 Amendment of s 54A (Building management statement may be registered)

Section 54A(6), definition *building development approval*, from ‘or compliance’ to ‘2009,’—

omit, insert—

[s 294]

under the Planning Act

294 Amendment of s 65 (Requirements of instrument of lease)

Section 65(3A), from ‘the reconfiguration’ to ‘2009’—

omit, insert—

reconfiguring a lot within the meaning of the
Planning Act

295 Amendment of s 83 (Registration of easement)

(1) Section 83(2), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

(2) Section 83(3) and (4)—

omit, insert—

(3) However, subsection (2)(a) applies to a plan of survey only if it is a plan of subdivision as defined in the *Economic Development Act 2012*, section 104(3).

(4) Also, subsection (2)(b) applies to a plan of survey only if it is a plan for which a process for approving the plan is provided under the Planning Act.

296 Amendment of s 94 (Meaning of *high-density development easement*)

Section 94(4), definition *relevant development approval*, paragraph (a), from ‘a development approval’ to ‘that Act—’—

omit, insert—

a development approval under the Planning Act for any of the following as defined in that Act—

297 Amendment of s 97A (Covenant by registration)

(1) Section 97A(1), ‘A’—

omit, insert—

Subject to this section, a

(2) Section 97A(6)—

omit, insert—

(6) Also, the covenant must not—

(a) secure the payment of money, or money’s worth, payable under a condition of a development approval, or an infrastructure agreement, under the Planning Act; or

Note—

See also the Planning Act, section 106.

(b) be inconsistent with a planning scheme under the Planning Act that—

(i) applies to the land the subject of the covenant; and

(ii) is in effect when the instrument of covenant is registered; or

(c) provide for anything capable of being the subject of an instrument of easement.

(6A) Subsection (6)(b) does not apply to a covenant if it was entered into under a condition of a development approval, or an infrastructure agreement, under the Planning Act.

298 Amendment of s 97AA (Compliance with s 97A)

Section 97AA—

insert—

(4) However, the registrar need not consider whether an instrument purporting to be an instrument of covenant complies with section 97A(6)(b).

[s 299]

299 Amendment of s 115I (Enlarging the number of lots through progressive subdivision)

(1) Section 115I(1)(a)—

omit, insert—

(a) an application for a development approval is made under the Planning Act; or

(aa) an application for a development approval, or a request for compliance assessment of development, was made under the repealed *Sustainable Planning Act 2009*; or

(2) Section 115I(1)(aa) and (b)—

renumber as section 115I(1)(b) and (c).

300 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

Planning Act means the *Planning Act 2016*.

Part 33 Amendment of Land Valuation Act 2010

301 Act amended

This part amends the *Land Valuation Act 2010*.

302 Replacement of s 10 (Zoned rural land)

Section 10—

omit, insert—

10 Zoned rural land

- (1) An area of land is zoned rural land if more than half the land is zoned as rural land, however called, under a planning scheme.

Note—

For public access to planning schemes, see the Planning Act, chapter 7, part 3.

- (2) Land zoned as rural-residential land, however called, under a planning scheme is not zoned as rural land.

303 Amendment of s 11 (Cessation of zoned rural land)

Section 11, ‘preliminary approval under the Planning Act’—

omit, insert—

development approval

304 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *development approval* and *Planning Act*—

omit.

- (2) Schedule—

insert—

development approval means a development approval under the Planning Act.

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

- (3) Schedule, definition *development*, ‘section 7’—

omit, insert—

schedule 2

[s 305]

Part 34 Amendment of Liquor Act 1992

305 Act amended

This part amends the *Liquor Act 1992*.

306 Amendment of s 4 (Definitions)

- (1) Section 4, definitions *development approval* and *relevant period*—
omit.
- (2) Section 4—
insert—

development approval means a development approval under the Planning Act.

Planning Act means the *Planning Act 2016*.

relevant period, for a development approval for the use of land for licensed premises, means the first of the following periods to end—

- (a) the period at the end of which the approval, or the part of the approval for the use, lapses under the Planning Act;
- (b) 4 years after the day the approval takes effect.

307 Amendment of s 105B (Application for adult entertainment permit requires local government consent)

Section 105B(5), definition *consent*, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

308 Amendment of s 121 (Matters the commissioner must have regard to)

Section 121(1)(h), ‘*Sustainable Planning Act 2009*’ —
omit, insert—

Planning Act

309 Amendment of s 123 (Commissioner may grant provisional licence)

Section 123(1)(b), ‘*Sustainable Planning Act 2009*’ —
omit, insert—

Planning Act

Part 35 Amendment of Local Government Act 2009

310 Act amended

This part amends the *Local Government Act 2009*.

311 Amendment of s 37 (Development processes)

Section 37(2), ‘a process in the Planning Act, chapter 6’ —
omit, insert—

the development assessment process under the
Planning Act

312 Amendment of s 72 (Assessment of impacts on roads from certain activities)

Section 72(1)(c)(ii)—
omit, insert—

[s 313]

- (ii) development categorised under the local government's planning scheme as assessable development for the Planning Act; or

313 Amendment of s 93 (Land on which rates are levied)

Section 93(4)(a), 'or compliance permit'—
omit.

314 Insertion of new ch 9, pt 9

After section 307—
insert—

**Part 9 Transitional provisions
for Planning
(Consequential) and
Other Legislation
Amendment Act 2016**

308 Definitions for part

In this part—

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

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

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

309 Entry under existing application, permit or notice

- (1) This section applies to an application, permit or notice—

- (a) mentioned in former section 132; and
 - (b) made or given under the repealed Planning Act.
- (2) Former section 132 continues to apply in relation to the application, permit or notice as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

310 Existing remedial notice

- (1) This section applies to a remedial notice—
- (a) given under former section 138AA; and
 - (b) requiring an owner or occupier of a property to take action under the repealed Planning Act.
- (2) The remedial notice continues to have effect as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

311 Existing inside information

- (1) This section applies to information about any of the following (*existing inside information*) that, immediately before the commencement, was inside information, in relation to a local government, for former section 171A—
- (a) the exercise of a power under the repealed Planning Act by the local government, a councillor or a local government employee;
 - (b) a decision, or proposed decision, under the repealed Planning Act of the local government or any of its committees;
 - (c) the exercise of a power under the repealed Planning Act by the State, a Minister, a statutory body or an employee of the State or statutory body, that affects the local

[s 315]

government, any of its corporate entities or land or infrastructure within the local government's area;

- (d) any legal or financial advice about the repealed Planning Act created for the local government, any of its committees or any of its corporate entities.
- (2) Former section 171A continues to apply in relation to the existing inside information as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

312 Existing unpaid fine—where fine to be paid to

- (1) This section applies to a fine mentioned in former section 246 that—
 - (a) is unpaid; and
 - (b) was imposed in proceedings brought by a local government for an offence against the repealed Planning Act.
- (2) Former section 246(2) continues to apply in relation to the fine as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

315 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *Planning Act*, *Planning and Environment Court* and *planning scheme*—
omit.
- (2) Schedule 4—
insert—

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

Part 36 **Amendment of Local Government (Robina Central Planning Agreement) Act 1992**

316 Act amended

This part amends the *Local Government (Robina Central Planning Agreement) Act 1992*.

317 Amendment of s 6 (Amendment of planning agreement)

Section 6(a)—

omit, insert—

- (a) firstly, the *Planning Act 2016*, section 18 must be complied with for the proposed agreement as if it were a proposed planning scheme amendment under that Act; and

318 Insertion of new s 12

After section 11—

insert—

12 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

- (1) This section applies if, immediately before the commencement, the process for making a further agreement under former section 6(a) and (b) had started but not finished.
- (2) The process may be continued as if the *Planning Act 2016* and the *Planning (Consequential) and Other Legislation Amendment Act 2016* had not been enacted.
- (3) In this section—

[s 319]

former section 6(a) and (b) means section 6(a) and (b) as in force immediately before the commencement.

Part 37 **Amendment of Major Events Act 2014**

319 **Act amended**

This part amends the *Major Events Act 2014*.

320 **Amendment of s 78 (Application of other Acts to activities or works for major event)**

Section 78(2)(f)—

omit, insert—

(f) the *Planning Act 2016*.

Part 38 **Amendment of Major Sports Facilities Act 2001**

321 **Act amended**

This part amends the *Major Sports Facilities Act 2001*.

322 **Amendment of s 30AI (Definitions for div 1)**

Section 30AI, definition *relevant development approval*, ‘*Sustainable Planning Act 2009*’—

omit, insert—

repealed *Sustainable Planning Act 2009* and the
Planning Act

323 Amendment of s 30AN (Use of Suncorp Stadium for major sport events)

Section 30AN(2)—

omit, insert—

- (2) Subsection (1) applies despite the following—
 - (a) the relevant development approval condition;
 - (b) the Planning Act;
 - (c) any local planning instrument made under the Planning Act applying to the land on which the facility is;
 - (d) any development approval under the Planning Act relating to the facility.

324 Amendment of s 30A (Lawful use for major sports facilities for prescribed special events)

Section 30A(2)—

omit, insert—

- (2) The use of the facility for the event is a lawful use of the facility despite the following—
 - (a) the Planning Act;
 - (b) any local planning instrument made under the Planning Act applying to the land on which the facility is;
 - (c) any development approval under the Planning Act relating to the facility.

[s 325]

325 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

insert—

Planning Act means the *Planning Act 2016*.

(2) Schedule 2, definition *use*, paragraphs (a) and (b), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

Part 39 Amendment of Marine Parks Act 2004

326 Act amended

This part amends the *Marine Parks Act 2004*.

327 Amendment of schedule (Dictionary)

Schedule, definition *environment conservation legislation*, examples, fifth dot point, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act 2016

Part 40 Amendment of Mineral Resources Act 1989

328 Act amended

This part amends the *Mineral Resources Act 1989*.

329 Amendment of ch 1, pt 3, hdg (Relationship with Sustainable Planning Act 2009)

Chapter 1, part 3, heading, ‘Sustainable Planning Act 2009’—
omit, insert—

Planning Act

330 Amendment of s 4A (Effect on development)

(1) Section 4A(2), from ‘For’ to ‘applies to’—
omit, insert—

The Planning Act applies to development on

(2) Section 4A(3) and note—
omit, insert—

(3) The Planning Act applies to building work under the *Building Act 1975* that is authorised under this Act, including under a mining tenement.

(4) However, the building work is taken to be accepted development for the Planning Act to the extent the building work—

(a) would, other than for this subsection, be assessable development under the Planning Act; and

(b) complies with the relevant provisions for the building work.

(5) In this section—

relevant provisions, for building work, see the *Building Act 1975*, section 21(5).

331 Amendment of s 4B (Notice to local government and chief executive (planning) of particular mining tenements)

Section 4B(4)(b), ‘for administering IDAS for the Heritage Act, in relation to’—

[s 332]

omit, insert—

development on

332 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *IDAS*, *Planning Act* and *planning scheme—*

omit.

- (2) Schedule 2—

insert—

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

- (3) Schedule 2, definition *development*, ‘section 7’—

omit, insert—

schedule 2

Part 41 Amendment of Nature Conservation Act 1992

333 Act amended

This part amends the *Nature Conservation Act 1992*.

334 Omission of s 106 (Orders prevail over planning schemes)

Section 106—

omit.

335 Omission of s 122 (Conservation plans and regulations prevail over planning schemes)

Section 122—

omit.

336 Amendment of schedule (Dictionary)

Schedule, definition *planning scheme*—

omit.

Part 42 Amendment of Neighbourhood Disputes (Dividing Fences and Trees) Act 2011

337 Act amended

This part amends the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*.

338 Amendment of schedule (Dictionary)

Schedule, definition *development approval*—

omit, insert—

development approval means a development approval under the *Planning Act 2016*.

Part 44 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

342 Act amended

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

343 Amendment of s 33 (Incidental activities)

Section 33(2)(a), note, ‘*Sustainable Planning Act 2009*, chapter 6’—

omit, insert—

Planning Act 2016, chapter 3

344 Amendment of s 112 (Incidental activities)

Section 112(2), note—

omit, insert—

Note—

For development generally, see the *Planning Act 2016*, chapter 3.

345 Amendment of s 403 (Incidental activities)

Section 403(4), note—

omit, insert—

Note—

For development generally, see the *Planning Act 2016*, chapter 3.

346 Amendment of s 442 (Incidental activities)

Section 442(3), note—

[s 347]

omit, insert—

Note—

For development generally, see the *Planning Act 2016*, chapter 3.

Part 45 Amendment of Plumbing and Drainage Act 2002

347 Act amended

This part amends the *Plumbing and Drainage Act 2002*.

348 Amendment of s 85 (Process for assessing plans)

Section 85(10), note, from ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act, chapter 6.

349 Amendment of s 86 (General process for assessing compliance assessable work)

Section 86(12), note, from ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act, chapter 6.

350 Amendment of s 86A (Process for assessing certain compliance assessable work in remote areas)

Section 86A(8), note, from ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act, chapter 6.

351 Amendment of s 95 (Information notice)

Section 95, note, from ‘*Sustainable Planning Act 2009*’—
omit, insert—

Planning Act, chapter 6.

352 Amendment of s 114 (Functions and powers of inspectors and relationship to the Local Government Act 2009 and City of Brisbane Act 2010)

Section 114(1)(b)—
omit, insert—

(b) the Planning Act; or

353 Amendment of s 118 (Relationship with Sustainable Planning Act 2009)

(1) Section 118, heading, ‘*Sustainable Planning Act 2009*’—
omit, insert—

Planning Act

(2) Section 118(1), ‘*Sustainable Planning Act 2009*’—
omit, insert—

Planning Act

(3) Section 118(1), note—
omit, insert—

Note—

See the Planning Act, section 167.

(4) Section 118(3), ‘*Sustainable Planning Act 2009*, section 533(2)’—

omit, insert—

Planning Act, section 228(3)

[s 354]

354 Amendment of schedule (Dictionary)

- (1) Schedule, definition *building and development dispute resolution committee*—

omit.

- (2) Schedule—

insert—

Planning Act means the *Planning Act 2016*.

- (3) Schedule, definition *development approval*, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

- (4) Schedule, definition *information notice*, paragraph (b)(iii), ‘*building and development dispute resolution committee*’—

omit, insert—

development tribunal under the
Planning Act

**Part 46 Amendment of Private Health
Facilities Act 1999**

355 Act amended

This part amends the *Private Health Facilities Act 1999*.

356 Amendment of s 62 (Meaning of *prescribed alteration*)

Section 62(2), from ‘or compliance’—

omit, insert—

under the *Planning Act 2016* is required.

[s 360]

- (b) a change application to change a development approval that already approves a material change of use of premises for a brothel; or
- (c) a change application to change a development approval—
 - (i) to approve a material change of use of premises for a brothel; and
 - (ii) that does not already approve a material change of use of premises for a brothel.

360 Amendment of pt 4, div 2, hdg (Particular provisions about development applications)

Part 4, division 2, heading, ‘development’—

omit, insert—

relevant

361 Replacement of s 63B (Notification by assessment manager of development application)

Section 63B—

omit, insert—

63B Notification by decision-maker of relevant application

- (1) Within 10 business days after receiving a relevant application, the decision-maker must give the Authority—
 - (a) a copy of the application; and
 - (b) for an application other than a minor change application—a written notice stating whether the development the subject of the application requires code assessment or impact assessment under the Planning Act.

- (2) Subsection (1) does not apply if the decision-maker for the relevant application is the Planning and Environment Court.

362 Amendment of pt 4, div 3, hdg (Review by QCAT)

Part 4, division 3, heading, editor's note before section 64A—
omit.

363 Amendment of s 64A (Review of decisions about code assessment)

- (1) Section 64A(1) and (2)—

omit, insert—

- (1) This section applies if a decision-maker decides a relevant application, other than a minor change application, requires code assessment under the Planning Act.
- (2) The applicant for the relevant application may apply, as provided under the QCAT Act, to QCAT for a review of any of the following decisions of the decision-maker about the application—
- (a) a decision that the application requires code assessment under the Planning Act;
 - (b) if the relevant application is a development application—
 - (i) a refusal of all or part of the application; or
 - (ii) a deemed refusal of the application; or
 - (iii) a provision of any development approval given for the application; or
 - (iv) a decision to give a preliminary approval even though the application sought a development permit;

[s 364]

- (c) if the relevant application is a change application—a decision on the application, including a deemed refusal of the application.
- (2) Section 64A(3), ‘Integrated’—
omit.
- (3) Section 64A(3), note, ‘assessment manager’—
omit, insert—
decision-maker
- (4) Section 64A(5), ‘Integrated Planning Act, section 4.1.21’—
omit, insert—
Planning and Environment Court Act 2016,
section 11

364 Amendment of s 64B (Review of decisions about impact assessment)

- (1) Section 64B(1) and (2)—
omit, insert—
 - (1) This section applies if a decision-maker decides a relevant application, other than a minor change application, requires impact assessment under the Planning Act.
 - (2) The applicant for the relevant application may apply, as provided under the QCAT Act, to QCAT for a review of the decision-maker’s decision that the application requires impact assessment.
- (2) Section 64B(3), ‘the acknowledgement notice.’—
omit, insert—
a notice by the decision-maker under the development assessment rules under the Planning Act accepting the application.

-
- (3) Section 64B(3), note, ‘assessment manager’—
omit, insert—
decision-maker
- (4) Section 64B(5), ‘Integrated Planning Act, section 4.1.21’—
omit, insert—
Planning and Environment Court Act 2016,
section 11

365 Amendment of s 64C (Procedures for review)

- (1) Section 64C(1), from ‘development application’—
omit, insert—
relevant application applies to QCAT for a review
of a decision of the decision-maker.
- (2) Section 64C(2), (3) and (4), ‘assessment manager’—
omit, insert—
decision-maker

366 Amendment of s 64D (No appeal from QCAT’s decision under the Integrated Planning Act)

- (1) Section 64D, heading, ‘Integrated’—
omit.
- (2) Section 64D(1), ‘an assessment manager’—
omit, insert—
a decision-maker
- (3) Section 64D(2), ‘Integrated’—
omit.

[s 367]

367 Amendment of s 66 (Declaration that premises are a prohibited brothel)

Section 66(2)(b), after ‘Planning Act’—

insert—

or the repealed *Sustainable Planning Act 2009*

368 Amendment of s 140 (Regulation-making power)

Section 140(2)(f)—

omit, insert—

- (f) assessment benchmarks for the Planning Act for the assessment under that Act of assessable development that is a material change of use of premises for a brothel, other than an assessment carried out by the chief executive of the department in which that Act is administered;

369 Insertion of new pt 9, div 8

Part 9—

insert—

Division 8 Provisions for Planning (Consequential) and Other Legislation Amendment Act 2016

164 Definitions for division

In this division—

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

former, in relation to a provision, means the provision as in force immediately before the

provision was amended or repealed under the amending Act.

165 Existing development application or request to change a development approval

- (1) This section applies to—
 - (a) an existing development application for a material change of use of premises for a brothel; and
 - (b) an existing request to change a development approval for a brothel.
- (2) Former section 63B continues to apply in relation to the application or request as if the amending Act had not been enacted.

- (3) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

existing request to change a development approval means a request to change a development approval made under the repealed Planning Act, to which the Planning Act, section 287 applies.

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

166 Existing review or right to review by QCAT

- (1) Subsection (2) applies if—
 - (a) a person applied to QCAT for review of a decision under former section 64A or 64B; and

[s 369]

- (b) QCAT had not made its decision on the review before the commencement.
- (2) QCAT must hear, or continue to hear, and decide the review under the pre-amended Act as if the amending Act had not been enacted.
- (3) Subsection (4) applies if, before the commencement—
 - (a) a person could have applied to QCAT for review of a decision under former section 64A or 64B; and
 - (b) the person had not applied to QCAT for the review.
- (4) The person may apply to QCAT for a review of the decision, and QCAT must hear and decide the review, under the pre-amended Act as if the amending Act had not been enacted.
- (5) In this section—

pre-amended Act means this Act as in force immediately before the commencement of the amending Act.

167 Existing declaration or temporary declaration that premises are a prohibited brothel

- (1) A declaration made under former section 66 and in force immediately before the commencement—
 - (a) continues in force subject to section 66(5); and
 - (b) is taken to have been made under section 66.
- (2) A temporary declaration made under former section 66A and in force immediately before the commencement—
 - (a) continues in force subject to section 66A(2); and

- (b) is taken to have been made under section 66A.

370 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *assessment manager*, *development application*, *IDAS* and *Planning Act*—
omit.
- (2) Schedule 4—
insert—

assessment manager, for a development application, means the person who is the assessment manager under the Planning Act for the application.

change application means a change application under the Planning Act.

decision-maker, for part 4, see section 62.

development application means a development application under the Planning Act.

development approval means a development approval under the Planning Act.

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

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

Planning Act means the *Planning Act 2016*.

relevant application, for part 4, see section 62.

[s 371]

Part 48 **Amendment of Queensland Building and Construction Commission Act 1991**

371 Act amended

This part amends the *Queensland Building and Construction Commission Act 1991*.

372 Amendment of s 68E (Obligation of assessment manager or compliance assessor in relation to insurance premium)

- (1) Section 68E, heading, ‘or compliance assessor’—
omit.
- (2) Section 68E(1), from ‘or compliance assessor must’ to ‘compliance permit’—
omit, insert—

must not, under the Planning Act, give a
development approval
- (3) Section 68E(1)(a), ‘or compliance assessor’—
omit.
- (4) Section 68E(2)—
omit.

373 Amendment of s 108 (Obligation of assessment manager)

Section 108(2)—

omit.

374 Insertion of new sch 1, pt 13

Schedule 1—

insert—

Part 13 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

70 Existing development applications and requests for compliance assessment

- (1) Former section 68E continues to apply in relation to the following as if the amending Act had not been enacted—
 - (a) the giving of a development approval mentioned in former section 68E(1) for an existing development application;
 - (b) the giving of a compliance permit mentioned in former section 68E(1) for an existing request for compliance assessment.
- (2) 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 Planning Act, to which the Planning Act, section 287 applies.

existing request for compliance assessment means a request for compliance assessment for development made under the repealed Planning Act, to which the Planning Act, section 287 applies.

former section 68E means section 68E as in force immediately before the commencement.

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

[s 375]

375 Amendment of sch 1B (Domestic building contracts)

Schedule 1B, section 1, definition *development approval*—
omit.

376 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *development approval*—
omit.

(2) Schedule 2—
insert—

development approval means a development approval under the Planning Act.

Planning Act means the *Planning Act 2016*.

(3) Schedule 2, definition *assessment manager*, ‘*Sustainable Planning Act 2009*, section 246(1)’—
omit, insert—

Planning Act, section 48(1)

Part 49 Amendment of Queensland Heritage Act 1992

377 Act amended

This part amends the *Queensland Heritage Act 1992*.

377A Amendment of s 8 (Functions of council)

Section 8(1)(e)—

omit, insert—

(e) to give advice to the planning chief executive about the effect that development

proposed under a development application or change application may have on the cultural heritage significance of a State heritage place;

Note—

See also the Planning Act, section 276A.

Editor's note—

The note refers to a provision proposed to be inserted by an amendment in consideration in detail of the Planning Bill 2015.

- (f) to perform other functions given to the council under this Act or by the Minister.

378 Amendment of s 58 (Obligation to give notice about proposed development)

Section 58(2) and (3)—

omit, insert—

- (2) The owner must, at least 10 business days before a prescribed application is made in relation to the place, give the chief executive notice of the application, if—
 - (a) the owner is the applicant; or
 - (b) the application is supported by the written consent of the owner.

Maximum penalty—100 penalty units.

- (3) In this section—

prescribed application means—

- (a) an application for a development approval; or
- (b) a change application other than a change application for a minor change to a development approval, as defined in the Planning Act.

[s 379]

379 Amendment of s 59 (Obligation to give notice about development approvals)

(1) Section 59(3)(b)—

omit, insert—

(b) when the owner made the application or was given the notice, the owner knew or ought reasonably to have known that a following application (each a ***relevant application***) in relation to the place had been made but not decided under the Planning Act—

(i) an application for a development approval;

(ii) a change application other than a change application for a minor change to a development approval, as defined in the Planning Act.

(2) Section 59(4), ‘application for the development approval’—

omit, insert—

relevant application

380 Replacement of pt 6, div 1, hdg (Assessing development applications)

Part 6, division 1, heading—

omit, insert—

Division 1

**Development on
Queensland heritage place
by State**

381 Omission of ss 68–70

Sections 68 to 70—

omit.

382 Amendment of s 77 (Purpose of div 3)

Section 77, from ‘assessable’—

omit, insert—

categorised as assessable development under a regulation made under the Planning Act.

383 Amendment of s 111 (Appeals about permit to enter protected area)

Section 111(5)—

omit, insert—

- (5) The *Planning and Environment Court Act 2016*, part 5, division 1, with any changes the court considers appropriate, applies to the appeal as if the appeal were a Planning Act appeal under that Act.

384 Amendment of s 112 (Local government to identify places in planning scheme or local heritage register)

Section 112(2)—

omit.

385 Amendment of s 112A (Chief executive may recommend place becomes a local heritage place)

Section 112A(2), ‘section 112(1)’—

omit, insert—

section 112

386 Replacement of pt 11, div 4 (Code for IDAS for local heritage places on local heritage registers)

Part 11, division 4—

omit, insert—

[s 387]

Division 4 Assessing development under Planning Act

121 Particular matters for assessing development on a local heritage place on a local heritage register

- (1) This section applies to development on a local heritage place on a local heritage register.
- (2) A regulation may prescribe—
 - (a) assessment benchmarks for the Planning Act for the assessment of the development under that Act, other than an assessment carried out by the planning chief executive; or
 - (b) for the Planning Act, the matters a referral agency under that Act other than the planning chief executive—
 - (i) must or may assess a development application for the development against; or
 - (ii) must or may assess a development application for the development having regard to.

387 Amendment of s 123 (Local heritage register may be adopted in planning scheme)

Section 123(2)—

omit.

388 Amendment of s 124 (Provision about entitlement to claim compensation)

(1) Section 124(2)—

omit, insert—

-
- (2) For the Planning Act, chapter 2, part 4, division 2, the entry of the place in the local heritage register is taken to be an adverse planning change to the local government's planning scheme.
- (2) Section 124(3), 'section 704'—
omit, insert—
section 31
- (3) Section 124(4)(c), 'chapter 9, part 3'—
omit, insert—
chapter 2, part 4, division 2
- (4) Section 124(5), 'section 704'—
omit, insert—
section 31

389 Replacement of s 164 (Court process for appeal)

Section 164—

omit, insert—

164 Court process for appeal

The *Planning and Environment Court Act 2016*, part 5, division 1, with any changes the Planning and Environment Court considers appropriate, applies to an appeal under this part as if the appeal were a Planning Act appeal under that Act.

390 Amendment of s 164B (Restoration orders)

Section 164B(7), definition *offence*, paragraph (b), 'section 578(1) or 580'—

omit, insert—

section 162(1) or 163

[s 391]

391 Amendment of s 164C (Non-development orders)

Section 164C(10), definition *offence*, paragraph (b), ‘section 578 or 580’—

omit, insert—

section 162(1) or 163

392 Amendment of s 164D (Education and public benefit orders)

Section 164D(5), definitions *education order* and *offence*, paragraph (b), ‘section 578 or 580’—

omit, insert—

section 162(1) or 163

393 Amendment of s 198 (Local governments prescribed under the pre-amended Act, s 112)

(1) Section 198(2), ‘section 112(1)(a)’—

omit, insert—

section 112(a)

(2) Section 198(2)(b)—

omit, insert—

(b) the local government reviews its planning scheme under the Planning Act;

(c) the local government makes a new planning scheme under the Planning Act.

394 Amendment of s 199 (Non-application of particular provisions to local governments)

Section 199(1)(a) and (b), ‘section 112(1)(a)’—

omit, insert—

section 112(a)

395 Insertion of new pt 15, div 5

Part 15—

insert—

**Division 5 Transitional provisions for
Planning (Consequential)
and Other Legislation
Amendment Act 2016**

200 Definitions for division

In this division—

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

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

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

201 Existing particular development applications

- (1) Subsection (2) applies to an existing application for a development approval mentioned in former section 59(3)(b).
- (2) Former section 59 continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) Subsection (4) applies to an existing development application mentioned in former section 68(1).
- (4) Former section 68 continues to apply in relation to the application as if the amending Act had not been enacted.

[s 395]

- (5) Subsection (6) applies to an existing development application mentioned in former section 69(1).
- (6) Former section 69 continues to apply in relation to the application as if the amending Act had not been enacted.
- (7) Subsection (8) applies to an existing development application mentioned in former section 70.
- (8) Former section 70 continues to apply in relation to the application as if the amending Act had not been enacted.
- (9) In this section—
existing application for a development approval or *existing development application* means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

202 Existing appeals

- (1) This section applies if—
 - (a) a person started an appeal to the Planning and Environment Court under former section 111 or former part 13 about a matter; and
 - (b) the appeal had not been decided before the commencement.
- (2) The Planning and Environment Court must hear, or continue to hear, and decide the appeal under former section 111 or former part 13 as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.

203 Entries in local government's local heritage register made before commencement

- (1) This section applies if a place was entered in a local government's local heritage register before the commencement.
- (2) Former section 124 and the repealed Planning Act continue to apply in relation to the entry as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.
- (3) If a person claims, or claimed, compensation under the repealed Planning Act in relation to the entry, a claim for compensation can not be made in relation to the entry under the Planning Act.

204 Court's power to make particular restoration orders, and their enforcement

- (1) This section applies if, before or after the commencement, a person is convicted of an offence against the repealed Planning Act, section 578(1) or 580 in relation to development on a Queensland heritage place.
- (2) Former section 164B applies or continues to apply in relation to the offence as if the amending Act had not been enacted.

205 Court's power to make particular non-development orders, and their enforcement

- (1) This section applies if, before or after the commencement—
 - (a) the owner of a Queensland heritage place is convicted of an offence against the repealed Planning Act, section 578(1) or 580; and
 - (b) the offence involves the destruction of, or damage to, a Queensland heritage place.

[s 396]

- (2) Former section 164C applies or continues to apply in relation to the offence as if the amending Act had not been enacted.

206 Court's power to make particular education and public benefit orders

- (1) This section applies if, before or after the commencement, a person is convicted of an offence against the repealed Planning Act, section 578 or 580 in relation to development on a Queensland heritage place.
- (2) Former section 164D applies or continues to apply in relation to the offence as if the amending Act had not been enacted.

396 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *Planning Act*, *Planning and Environment Court* and *planning scheme*—
omit.

- (2) Schedule—
insert—

change application means a change application under the Planning Act.

development application means a development application under the Planning Act.

Planning Act means the *Planning Act 2016*.

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

planning scheme means a planning scheme under the Planning Act.

- (3) Schedule, definition *local heritage register*, 'section 112(1)(b)'—

omit, insert—

section 112(b)

Part 50 **Amendment of Queensland Reconstruction Authority Act 2011**

397 Act amended

This part amends the *Queensland Reconstruction Authority Act 2011*.

398 Amendment of s 47 (Definitions for pt 5)

- (1) Section 47, definition *decision-maker*, paragraph (b), examples—

omit, insert—

Example of a decision-maker for paragraph (b)—

a referral agency

- (2) Section 47, definition *prescribed process*, ‘in a stage of IDAS’—

omit, insert—

under the development assessment process under the Planning Act

- (3) Section 47, definition *prescribed process*, example—

omit.

399 Amendment of s 49 (Progression notice)

Section 49(2)(a)—

omit, insert—

[s 400]

- (a) identify the process; and

400 Amendment of s 50 (Notice to decide)

- (1) Section 50(7)—

omit, insert—

- (7) If the prescribed decision relates to an application for a development approval, or a change application 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.

- (2) Section 50—

insert—

- (10) In this section—

decision-making period means—

- (a) for an 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—the period, or extended period, allowed under the development assessment rules under the Planning Act for the responsible entity to decide the application.

401 Amendment of s 53 (Providing assistance or recommendations)

Section 53(3), from ‘for infrastructure’—

omit, insert—

about infrastructure.

402 Amendment of s 54 (Effects of step-in notice)

(1) Section 54(1)(d)—

omit, insert—

(d) if the prescribed decision or process relates to an application for a development approval or a change application, 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

(2) Section 54(2), definition *advice agency*—

omit.

403 Amendment of s 55 (Authority's decision)

(1) Section 55(4)—

omit.

(2) Section 55(7), 'subsection (5)'—

omit, insert—

subsection (4)

(3) Section 55(5) to (8)—

renumber as section 55(4) to (7).

404 Amendment of s 56 (Effects of decision)

Section 56(1)(b), 'section 57'—

[s 405]

omit, insert—

section 57(1)

405 Amendment of s 57 (Notice of decision)

(1) Section 57—

insert—

(1A) The authority must also give notice of its decision under section 55 about the prescribed decision to the local government for the land to which the prescribed decision relates if—

- (a) the prescribed decision is a decision on an application for a development approval or a change application; and
- (b) the local government is not the decision-maker for the prescribed decision.

(2) Section 57(2), ‘The notice must include—’

omit, insert—

A notice under this section must include—

(3) Section 57(1A) and (2)—

renumber as section 57(2) and (3).

406 Amendment of s 58 (Report about decision)

(1) Section 58(2)(b), ‘section 55(5)’—

omit, insert—

section 55(4)

(2) Section 58(2)(c) and (3), ‘section 57’—

omit, insert—

section 57(1)

407 Amendment of s 63 (Content of development scheme)

(1) Section 63(3)(b) to (e)—

omit, insert—

- (b) categorise development for the project or in the area to be accepted development, assessable development or prohibited development for the Planning Act; or
- (c) state whether development categorised as assessable development by the plan requires code assessment or impact assessment under the Planning Act; or
- (d) state assessment benchmarks for the Planning Act that assessable development under the plan must be assessed against; or
- (e) state whether particular development for the project or in the area is consistent or inconsistent with the plan.

(2) Section 63(4)(b)—

omit, insert—

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

408 Amendment of s 64 (Development scheme may make provision for particular assessable development)

(1) Section 64(1)—

omit, insert—

- (1) A development scheme may provide that development categorised as assessable development under a regulation made under the Planning Act is not assessable development for a declared project or a part of a reconstruction area.

[s 409]

- (2) Section 64(2), from ‘reconstruction area,’—
omit, insert—
a part of a reconstruction area, the development is not assessable development under the Planning Act for the declared project or part.
- (3) Section 64(3) and (4), after ‘development application’—
insert—
or change application
- (4) Section 64(4), ‘Sustainable’—
omit.

409 Amendment of s 78 (Relationship with other instruments)

Section 78(1)(b)—

omit, insert—

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

410 Amendment of pt 6, div 4, hdg (Relationship with Sustainable Planning Act)

Part 6, division 4, heading, ‘Sustainable’—

omit.

411 Amendment of s 79 (Application of sdivs 2 and 3)

Section 79, from ‘a development application’—

omit, insert—

the following applications (each a *relevant application*)—

- (a) a development application for development in the area (the *scheme area*) to which a development scheme for a declared project or a reconstruction area, or part of a reconstruction area, applies;
- (b) a change application to change a development approval that already approves particular development in the scheme area;
- (c) a change application to change a development approval—
 - (i) to approve particular development in the scheme area; and
 - (ii) that does not already approve particular development in the scheme area.

412 Replacement of pt 6, div 4, sdivs 2 and 3

Part 6, division 4, subdivisions 2 and 3—

omit, insert—

Subdivision 2 Assessing relevant applications

80 Assessment of development applications

- (1) This section applies to a relevant application that is a development application.
- (2) A referral agency for the application must assess the application having regard to the development scheme.
- (3) The assessment manager for the application must assess the application against the matters stated in the development scheme as assessment benchmarks for the Planning Act for the application.
- (4) This section does not limit the Planning Act, sections 45, 55, 60 and 61.

[s 412]

- (5) In this section, a reference to the development scheme is a reference to the development scheme in effect when the application was properly made under the Planning Act.
- (6) However, an entity mentioned in subsection (2) or (3) may give the weight that the entity considers is appropriate, in the circumstances, to any amendment or replacement of the development scheme that came into effect after the application was properly made under the Planning Act.

81 Assessment of change applications

- (1) This section applies to a relevant application that is a change application.
- (2) The responsible entity for the application must assess the application against the development scheme.
- (3) This section does not limit the Planning Act, sections 81 and 82.
- (4) In this section, a reference to the development scheme is a reference to the development scheme in effect when the application was made.
- (5) However, the responsible entity for the application may give the weight the entity considers is appropriate, in the circumstances, to any amendment or replacement of the development scheme that came into effect after the application was made.

Subdivision 3 Deciding relevant applications

82 Restriction on approving relevant application

- (1) A relevant application must not be approved under the Planning Act to the extent the development the subject of the application is inconsistent with the land use plan for the development scheme, unless—
 - (a) a preliminary approval under the Planning Act is in force for the land on which the development is to be carried out; and
 - (b) the development is consistent with the preliminary approval.
- (2) To remove any doubt, it is declared that subsection (1) does not require the application to be approved under the Planning Act only because subsection (1)(a) and (b) applies.

413 Omission of pt 6, div 4, sdiv 4 (Compliance stage under IDAS)

Part 6, division 4, subdivision 4—

omit.

414 Amendment of s 89 (Lawful use of premises protected)

- (1) Section 89(3), definition *lawful use*, paragraph (b), ‘Sustainable Planning Act’—

omit, insert—

Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997*

- (2) Section 89(3), definition *material change of use*—

omit, insert—

[s 415]

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

415 Amendment of s 91 (New instruments can not affect existing development approval or compliance permit)

- (1) Section 91, heading, and subsection (1)(a), ‘or compliance permit’—
omit.
- (2) Section 91(1)(b) and (2), ‘or permit’—
omit.

416 Amendment of s 92 (Minister’s power to amend development approval or compliance permit)

- (1) Section 92, heading, ‘or compliance permit’—
omit.
- (2) Section 92(2), ‘Sustainable’—
omit.
- (3) Section 92(3), from ‘keep’—
omit, insert—
comply with the requirements under the Planning Act about giving public access to development approvals, as if the notice were a development approval.
- (4) Section 92(5) to (8)—
omit.
- (5) Section 92(10), definition *existing*, from ‘or a compliance permit’ to ‘or compliance permit’—
omit, insert—
, means a development approval
- (6) Section 92(9) and (10)—

renumber as section 92(5) and (6).

417 Replacement of pt 6, div 4, sdiv 6 (Community infrastructure designations)

Part 6, division 4, subdivision 6—

omit, insert—

Subdivision 6 Designations of premises under Planning Act for development of infrastructure

93 Designation of premises—development scheme

- (1) To remove any doubt, it is declared that—
 - (a) the planning Minister or a local government may make a designation under the Planning Act, chapter 2, part 5 of premises in, or partly in, the area to which a development scheme applies; and
 - (b) a designation of premises under the Planning Act that is in force immediately before a development scheme takes effect for all or part of the premises continues in force despite the development scheme taking effect.
- (2) Development carried out on premises that are the subject of a designation under the Planning Act is accepted development to the extent the development—
 - (a) is carried out under the designation; and
 - (b) would, other than for this subsection, be assessable development under a development scheme.

[s 418]

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

(4) In this section—

planning Minister means the Minister administering the Planning Act.

418 Amendment of s 95 (Planning and Environment Court may make declarations)

Section 95(3)—

omit.

419 Amendment of s 110 (Application of Sustainable Planning Act)

(1) Section 110, heading, ‘Sustainable’—

omit.

(2) Section 110, ‘Sustainable Planning Act, section 14(1)’—

omit, insert—

Planning Act, section 7(1)

420 Amendment of s 112 (Power of Minister to direct local government to take particular action about local planning instrument)

(1) Section 112(2)(c), example—

omit.

(2) Section 112(4)(c), after ‘make’—

insert—

, amend

(3) Section 112(5)—

omit, insert—

(5) In this section—

planning scheme means a planning scheme under the Planning Act.

planning scheme policy means a planning scheme policy under the Planning Act.

temporary local planning instrument means a temporary local planning instrument under the Planning Act.

421 Amendment of s 114 (Minister to give notice of direction)

Section 114, ‘Sustainable’—

omit.

422 Insertion of new pt 11

After part 10—

insert—

**Part 11 Transitional provisions
for Planning
(Consequential) and
Other Legislation
Amendment Act 2016**

139 Definitions for part

In this part—

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

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

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

140 Existing particular development applications

- (1) This section applies to an existing development application mentioned in former section 79.
- (2) The pre-amended Act continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

pre-amended Act means this Act as in force immediately before the commencement.

141 Existing particular requests for compliance assessment

- (1) Subsection (2) applies to an existing request for compliance assessment of development mentioned in former section 84(a).
- (2) Former section 87 continues to apply for assessing the development as if the amending Act had not been enacted.
- (3) Subsection (4) applies to an existing request for compliance assessment of a document or work mentioned in former section 84(b).
- (4) Former sections 86 and 87 continue to apply for assessing the document or work as if the amending Act had not been enacted.
- (5) In this section—

existing request for compliance assessment means a request for compliance assessment made under the repealed Planning Act, to which the Planning Act, section 287 applies.

423 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *community infrastructure designation*, *compliance permit*, *concurrency agency*, *IDAS*, *local planning instrument*, *planning instrument* and *Sustainable Planning Act*—

omit.

- (2) Schedule—

insert—

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

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

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

change application means a change application under the Planning Act.

local planning instrument means a local planning instrument under the Planning Act.

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

Planning Act means the *Planning Act 2016*.

planning instrument means a planning instrument under the Planning Act.

relevant application, for part 6, division 4, subdivisions 2 and 3, see section 79.

responsible entity, for a change application, means the responsible entity for the application under the Planning Act.

- (3) Schedule, definition *assessment manager*, ‘Sustainable Planning Act, section 246(1)’—

omit, insert—

[s 424]

Planning Act, section 48(1)

- (4) Schedule, definition *community infrastructure*, paragraphs (a) and (b)—

omit, insert—

- (a) infrastructure of a type prescribed by regulation under the Planning Act, section 35(1); or
- (b) other infrastructure prescribed by regulation.

- (5) Schedule, definitions *development, development application* and *development approval*, ‘Sustainable’—

omit.

- (6) Schedule, definition *infrastructure*, ‘Sustainable Planning Act, schedule 3’—

omit, insert—

Planning Act, schedule 2

- (7) Schedule, definition *referral agency*, ‘Sustainable Planning Act, section 252’—

omit, insert—

Planning Act, section 54(2)

Part 51 **Amendment of Regional Planning Interests Act 2014**

424 Act amended

This part amends the *Regional Planning Interests Act 2014*.

425 Amendment of s 5 (Relationship with resource Acts and Environmental Protection Act)

Section 5(1), ‘*Sustainable Planning Act 2009*’—
omit, insert—

Planning Act

426 Amendment of s 25 (Exemption—pre-existing regulated activity)

Section 25(1), after ‘under the’—
insert—

Planning Act or the repealed

427 Amendment of s 71 (Definitions for pt 5)

Section 71, definition *court*, ‘under the *Sustainable Planning Act 2009*’—
omit.

428 Amendment of s 72 (Appeal to Planning and Environment Court)

Section 72, note—
omit, insert—

Note—

See the *Planning and Environment Court Act 2016* for provisions about the powers, processes and procedures of the court.

429 Insertion of new s 73A

After section 73—
insert—

[s 430]

73A How appeals are started

- (1) An appeal is started by lodging a written notice of appeal with the registrar of the court.
- (2) The notice of appeal must be in the approved form and succinctly state the grounds of the appeal.

430 Insertion of new s 77A

After section 77—

insert—

77A Appeal decision

- (1) In deciding an appeal, the court must decide (the *appeal decision*) to do 1 of the following for the regional interests decision appealed against—
 - (a) confirm it;
 - (b) change it;
 - (c) set it aside and—
 - (i) make a decision replacing it; or
 - (ii) return the matter to the entity that made the decision appealed against with directions the court considers appropriate.
- (2) The appeal decision may also include other orders, declarations or directions the court considers appropriate.
- (3) The appeal decision, other than to the extent it is an excluded decision, is taken, for this Act (other than this part), to have been made by the entity that made the decision appealed against.
- (4) An *excluded decision* is a decision—
 - (a) to confirm the decision appealed against; or

- (b) to return the matter as mentioned in subsection (1)(c)(ii).

431 Amendment of s 78 (Declarations)

Section 78(2)—

omit, insert—

- (2) The court may also make an order about any declaration it makes under subsection (1).

432 Replacement of pt 9 (Transitional regulation-making power)

Part 9—

omit, insert—

**Part 9 Transitional provision
for Planning
(Consequential) and
Other Legislation
Amendment Act 2016**

108 Existing appeals

- (1) This section applies if—
- (a) a person started an appeal to the Planning and Environment Court under former part 5 before the commencement; and
 - (b) the appeal had not been decided before the commencement.
- (2) The Planning and Environment Court must hear, or continue to hear, the appeal under former part 5 as if the amending Act had not been enacted.
- (3) In this section—

[s 433]

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

former part 5 means part 5 as in force immediately before the commencement.

433 Amendment of sch 1 (Dictionary)

(1) Schedule 1, definition *regional plan*—
omit.

(2) Schedule 1—
insert—

Planning Act means the *Planning Act 2016*.

regional plan means a regional plan under the Planning Act.

(3) Schedule 1, definition *road*, ‘*Sustainable Planning Act 2009*, schedule 3’—
omit, insert—

Planning Act, schedule 2

Part 52 Amendment of Residential Services (Accreditation) Act 2002

434 Act amended

This part amends the *Residential Services (Accreditation) Act 2002*.

435 Amendment of s 29 (Notice of compliance with prescribed building requirements)

Section 29(4)(b), from ‘building’—

omit, insert—

development tribunal under the Planning Act; and

436 Amendment of s 30 (Appeal)

Section 30(2), from ‘building’—

omit, insert—

development tribunal under the Planning Act.

437 Amendment of s 31 (Decision on appeal)

(1) Section 31(1), ‘building and development dispute resolution committee’—

omit, insert—

development tribunal under the Planning Act

(2) Section 31(2), ‘committee’s’—

omit, insert—

tribunal’s

438 Amendment of s 33 (Prescribed fire safety document)

(1) Section 33(2)(b)—

omit, insert—

(b) either of the following applications has been made—

(i) a development application for a development approval for the building;

[s 439]

(ii) a change application to change a development approval for the building; and

(2) Section 33(2A)—

omit.

(3) Section 33(3), ‘or (2A)’—

omit.

(4) Section 33—

insert—

(4) In this section—

change application means a change application under the Planning Act.

development application means a development application under the Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997*.

development approval means a development approval under the Planning Act.

439 Insertion of new pt 15

After section 203—

insert—

Part 15 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

204 Appeals and particular rights to appeal to a building and development dispute resolution committee

(1) Subsections (2) to (4) apply if—

- (a) a person started an appeal under former section 30 about a matter to a building and development dispute resolution committee under the repealed Planning Act; and
 - (b) the appeal had not been decided before the repealed Planning Act was repealed.
- (2) If, before the repealed Planning Act was repealed, a building and development dispute resolution committee had been established under the repealed Planning Act for the appeal proceeding—
 - (a) former sections 30 to 32 and the repealed Planning Act continue to apply in relation to the appeal; and
 - (b) the committee's decision on the appeal is taken to be a decision of a development tribunal under the Planning Act.
- (3) Subsection (4) applies if a building and development dispute resolution committee had not been established under the repealed Planning Act for the appeal proceeding before the repealed Planning Act was repealed.
- (4) Sections 30 to 32 and the Planning Act apply in relation to the appeal, as if the person had started an appeal under section 30 to a development tribunal under the Planning Act about the matter.
- (5) Subsections (6) and (7) apply if—
 - (a) immediately before the commencement, a person had a right to appeal under former section 30 to a building and development dispute resolution committee about a matter; and
 - (b) the person had not, before the commencement, started an appeal under former section 30 to a building and

[s 440]

development dispute resolution committee
in exercise of the right.

- (6) The person may, under section 30, appeal to a development tribunal under the Planning Act about the matter.
- (7) Sections 30 to 32 and the Planning Act apply in relation to the appeal.
- (8) In this section—

former, in relation to a provision, means the provision as in force immediately before the provision was amended or repealed under the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

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

440 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *development application* and *development approval*—
omit.
- (2) Schedule 2—
insert—

Planning Act means the *Planning Act 2016*.

Part 53 Amendment of Sanctuary Cove Resort Act 1985

441 Act amended

This part amends the *Sanctuary Cove Resort Act 1985*.

442 Amendment of ss 9, 12E and 103

Sections 9(1) and (3), 12E(1) and (3) and 103(2), ‘Integrated’—
omit.

443 Amendment of sch 9 (Dictionary)

- (1) Schedule 9, definition *Integrated Planning Act*—
omit.
- (2) Schedule 9—
insert—

Planning Act means the *Planning Act 2016*.

Part 54 Amendment of South Bank Corporation Act 1989

444 Act amended

This part amends the *South Bank Corporation Act 1989*.

445 Amendment of s 3 (Definitions)

- (1) Section 3, definitions *planning scheme* and *Sustainable Planning Act*—
omit.
- (2) Section 3—
insert—

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

relevant application see section 77(1).

[s 446]

- (3) Section 3, definition *operational work*, ‘Sustainable Planning Act, section 10(1)’—

omit, insert—

Planning Act, schedule 2

446 Amendment of s 4 (Meaning of *assessable development*)

Section 4(b)—

omit, insert—

- (b) development categorised as assessable development or accepted development by a regulation made under the Planning Act.

447 Amendment of pt 7, div 5, hdg (Relationship with the Sustainable Planning Act until the development completion date)

Part 7, division 5, heading, ‘Sustainable Planning Act’—

omit, insert—

**Planning Act and Planning and Environment
Court Act 2016**

448 Replacement of ss 77 and 78

Sections 77 and 78—

omit, insert—

77 Application of division

- (1) This division applies to the following applications (each a *relevant application*)—
- (a) a development application under the Planning Act for which the corporation is a referral agency under that Act;
- (b) a change application under the Planning Act for which the corporation is a referral agency under that Act.

-
- (2) However, this division applies only until the end of the development completion date.
 - (3) In this section—
change application does not include a change application for a minor change to a development approval, as defined in the Planning Act.

78 Modified application of the Planning Act—appeals and prohibited development conditions

- (1) Despite the Planning Act, section 228, the applicant for the relevant application can not appeal against the corporation’s referral agency’s response under the Planning Act for the application.
- (2) The Planning Act, section 66 does not apply to a condition the corporation directs the assessment manager for the relevant application to impose on any development approval given under the Planning Act for the application.

78A Modified application of Planning and Environment Court Act 2016—particular declarations

The *Planning and Environment Court Act 2016*, section 11 does not apply in relation to the relevant application to the extent a declaration is sought about a matter done, to be done or that should have been done, by the corporation in relation to the application.

449 Amendment of pt 7, div 6, hdg (Relationship with the Sustainable Planning Act on development completion date)

Part 7, division 6, heading, ‘Sustainable’—

omit.

[s 450]

450 Amendment of s 79 (Effect of development completion date)

Section 79, ‘Sustainable Planning Act, section 243’—

omit, insert—

Planning Act

451 Insertion of new pt 11, div 9

Part 11—

insert—

**Division 9 Transitional provision for
Planning (Consequential)
and Other Legislation
Amendment Act 2016**

**141 Existing development application if
corporation was concurrence agency**

- (1) This section applies to an existing development application if the corporation was a concurrence agency under the repealed Planning Act for the application.
- (2) Section 78 as in force immediately before the commencement continues to apply in relation to the application.
- (3) In this section—

existing development application means a development application made under the repealed Planning Act, to which the Planning Act, section 287 applies.

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

452 Amendment of sch 4 (Modified Building Units and Group Titles Act)

Schedule 4, section 7(1), definition *building approvals authority*, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

Part 55 Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

453 Act amended

This part amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

454 Amendment of s 53 (Delegation)

(1) Section 53(5)(c), ‘concurrency’—

omit, insert—

referral

(2) Section 53(9), definition *concurrency agency*—

omit.

(3) Section 53(9)—

insert—

referral agency see the Planning Act, section 54(2).

455 Amendment of s 77H (Provision for things done under agreement before the transfer)

(1) Section 77H(a)—

omit, insert—

- (a) an infrastructure charge or cost levied by the local government under the repealed SPA, chapter 8, part 1 or the repealed IPA, chapter 5, part 1;

(2) Section 77H(b) and (c), ‘Planning Act’—

omit, insert—

repealed SPA

456 Amendment of s 77I (Application of sdiv 3A)

Section 77I(3), definition *relevant action*, paragraphs (a) to (d), ‘Planning Act’—

omit, insert—

repealed SPA

457 Amendment of s 78 (Reconfiguring a lot after transfer scheme or notice takes effect)

(1) Section 78(3)—

omit, insert—

- (3) The Planning Act does not apply to the reconfiguring of the lot.

(2) Section 78(5), definitions *reconfiguring a lot* and *State planning regulatory provision*—

omit.

458 Omission of ch 3, pt 3, div 2, sdiv 5 (Planning schemes and declared master planned areas)

Chapter 3, part 3, division 2, subdivision 5—

omit.

459 Replacement of ch 3A, pt 5, div 6, hdg (Planning Act)

Chapter 3A, part 5, division 6, heading—

omit, insert—

**Division 6 Repealed Sustainable
Planning Act 2009**

**460 Amendment of s 92DI (Cessation of Allconnex's
functions)**

(1) Section 92DI(1), 'Planning Act'—

omit, insert—

repealed SPA

(2) Section 92DI(2)(a)—

omit, insert—

(a) Allconnex has functions under the repealed
SPA—

(i) as a concurrence agency under the
repealed SPA for a development
application made under the repealed
SPA; or

(ii) for a request for compliance
assessment made under the repealed
SPA; and

(3) Section 92DI(3), after 'functions'—

insert—

under the repealed SPA

(4) Section 92DI(4), 'Planning Act'—

omit, insert—

repealed SPA

461 Omission of s 92DJ (Continued effect of non-application of planning schemes under s 78A)

Section 92DJ—

omit.

462 Amendment of s 99BO (Content of part A of plan)

Section 99BO(4), definition *priority infrastructure area*, ‘schedule 3’—

omit, insert—

schedule 2

463 Amendment of s 99BRBC (Notice of review decision)

Section 99BRBC(3)(a), ‘building and development committee’—

omit, insert—

development tribunal

464 Amendment of ch 4C, pt 4, div 3, hdg (Appeals to a building and development committee)

Chapter 4C, part 4, division 3, heading, ‘building and development committee’—

omit, insert—

development tribunal

465 Amendment of s 99BRBE (Appeals about applications for connections—general)

(1) Section 99BRBE(1)(a)—

omit, insert—

- (a) the land to which the connection relates is subject to an application for a development approval; and

-
- (aa) a development tribunal may, under the Planning Act, hear an appeal against a decision on the application for a development approval; and
- (2) Section 99BRBE(1)(aa) to (c)—
renumber as section 99BRBE(1)(b) to (d).
- (3) Section 99BRBE(2), ‘building and development committee’—
omit, insert—
development tribunal
- (4) Section 99BRBE(2)(a), ‘an application’—
omit, insert—
the application for a connection

466 Amendment of s 99BRBF (Appeals about applications for connections—particular charges)

- (1) Section 99BRBF(2), ‘building and development committee’—
omit, insert—
development tribunal
- (2) Section 99BRBF(3), before paragraph (a)—
insert—
(aa) the amount of the charge is so unreasonable that no reasonable distributor-retailer could have imposed the amount;
- (3) Section 99BRBF(3)(aa) to (b)—
renumber as section 99BRBF(3)(a) to (c).

467 Amendment of s 99BRBFA (Appeals against refusal of conversion application)

Section 99BRBFA(2), ‘building and development committee’—

omit, insert—

development tribunal

468 Amendment of s 99BRBG (Application of relevant committee appeal provisions)

(1) Section 99BRBG, heading, ‘committee’—

omit, insert—

development tribunal

(2) Section 99BRBG(1), ‘committee’—

omit, insert—

development tribunal

(3) Section 99BRBG(2), definition *relevant committee appeal provisions*—

omit, insert—

relevant development tribunal appeal provisions—

- (a) means the Planning Act, section 229(1) and (2) and chapter 6, part 2, division 3, other than sections 246, 250 and 253(2)(e) of that Act; and
- (b) includes any definitions in that Act relevant to section 229(1) and (2) and chapter 6, part 2, division 3 (other than sections 246, 250 and 253(2)(e)) of that Act.

469 Amendment of ss 99BRBH (Notice of appeal)

Section 99BRBH(2), ‘building and development committees’—

omit, insert—

development tribunals

470 Insertion of new s 99BRBIA

After section 99BRBI—

insert—

**99BRBIA Development tribunal to decide appeal
about application for a connection based on
particular laws**

- (1) This section applies to an appeal against a decision on an application for a connection, including, for example, a decision under a water approval given for the application.
- (2) The development tribunal must decide the appeal based on the laws in effect when the application was made.
- (3) However, if the laws are subsequently amended or replaced, the tribunal may in deciding the appeal give the weight the tribunal considers appropriate, in the circumstances, to any new laws.

471 Amendment of s 99BRBK (Registrar must ask distributor-retailer for material in particular proceedings)

Section 99BRBK(2), ‘building and development committees’—

omit, insert—

development tribunals

472 Amendment of s 99BRBL (Lodging appeal stops particular actions)

- (1) Section 99BRBL, heading—

omit, insert—

**99BRBL Work under water approval not to start if
appeal is started and not decided or
withdrawn**

- (2) Section 99BRBL(2)—

omit, insert—

- (2) However, if the development tribunal is satisfied the outcome of the appeal would not be affected if all or part of the work were to start before the appeal is decided, the tribunal may allow all or that part of the work to start before the appeal is decided.

472A Amendment of s 99BRBO (Appeals about applications for connections—particular charges)

Section 99BRBO(3)(a)—

omit, insert—

- (a) the amount of the charge is so unreasonable that no reasonable distributor-retailer could have imposed the amount;

473 Insertion of new s 99BRBPA

After section 99BRBP—

insert—

99BRBPA How appeals are started

- (1) An appeal under this division is started by lodging a written notice of appeal with the registrar of the Planning and Environment Court.
- (2) The notice of appeal must be in the approved form and succinctly state the grounds of the appeal.

474 Amendment of s 99BRBQ (Application of relevant court provisions)

- (1) Section 99BRBQ(1)(a) to (f)—

omit, insert—

-
- (a) a Planning Act appeal or Planning Act proceeding were a reference to an appeal under this division; and
 - (b) the Planning Act were a reference to this Act; and
 - (c) the assessment manager were a reference to the distributor-retailer that made the decision the subject of the appeal; and
 - (d) a development permit or development approval were a reference to a water approval; and
 - (e) a development application were a reference to the application for the water approval.

(2) Section 99BRBQ(2), definition *relevant court appeal provisions*—

omit, insert—

relevant court appeal provisions—

- (a) means the *Planning and Environment Court Act 2016*, part 5, other than sections 45 and 46(2), (5) and (6) of that Act; and
- (b) includes any definitions in the *Planning and Environment Court Act 2016* relevant to part 5 (other than sections 45 and 46(2), (5) and (6)) of that Act.

475 Insertion of new s 99BRBQA

After section 99BRBQ—

insert—

99BRBQA Court to decide appeal about application for a connection based on particular statutory instruments

- (1) This section applies to an appeal against a decision on an application for a connection,

including, for example, a decision under a water approval given for the application.

- (2) The Planning and Environment Court must decide the appeal based on the statutory instruments in force when the application was made.
- (3) However, if a statutory instrument is amended or replaced before the Planning and Environment Court decides the appeal, the court may, in deciding the appeal, give the weight the court considers is appropriate, in the circumstances, to the amendment or replacement.

476 Replacement of s 99BRBU (Who must prove case for appeals)

Section 99BRBU—

omit, insert—

99BRBU Who must prove case for appeals

- (1) In an appeal under section 99BRBN, 99BRBO or 99BRBOA, the appellant must establish that the appeal should be upheld.
- (2) In an appeal under section 99BRBP by a person given a water connection compliance notice, the distributor-retailer who gave the notice must establish that the appeal should be dismissed.

477 Amendment of s 99BRBV (Lodging appeal stops particular actions)

- (1) Section 99BRBV, heading—

omit, insert—

99BRBV Work under water approval not to start if appeal is started and not decided or withdrawn

- (2) Section 99BRBV(2)—

omit, insert—

- (2) However, if the Planning and Environment Court is satisfied the outcome of the appeal would not be affected if all or part of the work were to start before the appeal is decided, the court may allow all or that part of the work to start before the appeal is decided.

478 Amendment of s 99BRCC (Definitions for pt 7)

- (1) Section 99BRCC, definition *breakup agreement*, ‘section 632(2)’—

omit, insert—

section 114(2)

- (2) Section 99BRCC, definition *PPI index*—

omit, insert—

PPI means—

- (a) the producer price index for construction 6427.0 (ABS PPI) index number 3101—Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics; or
 - (b) if that index stops being published—another similar index prescribed by regulation.
- (3) Section 99BRCC, definition *SPRP (adopted charges)*—
omit.

479 Amendment of s 99BRCF (Power to adopt charges by board decision)

- (1) Section 99BRCF(2)(a), ‘infrastructure’—

omit, insert—

adopted

- (2) Section 99BRCF(2)(c)—

insert—

- (iii) trunk infrastructure related to development by a department, or part of a department, under a designation under the Planning Act.

480 Amendment of s 99BRCG (Matters for board decision)

- (1) Section 99BRCG(1)—

omit, insert—

- (1) An adopted charge may be made for providing trunk infrastructure for a land use if—
 - (a) the land use is prescribed by regulation under the Planning Act, section 111(3)(b); and
 - (b) the charge is no more than the proportion of the maximum adopted charge for trunk infrastructure the distributor-retailer may have under—
 - (i) a breakup agreement to which it is a party; or
 - (ii) if it is not a party to a breakup agreement—a regulation under the Planning Act.

- (2) Section 99BRCG(3), after ‘may do’—

insert—

either or both of

- (3) Section 99BRCG(3)(b)—

omit, insert—

- (b) make a provision (an ***automatic increase provision***) that provides for automatic increases in levied charges from when they are levied to when they are paid.

(4) Section 99BRCG(5)(b)—

omit, insert—

- (b) the increase worked out using the PPI, adjusted according to the 3-yearly PPI average, for the period—
 - (i) starting on the day the levied charge is levied; and
 - (ii) ending on the day the charge is paid.

(5) Section 99BRCG(6)—

omit, insert—

(6) In this section—

3-yearly PPI average means the PPI adjusted according to the 3-year moving average quarterly percentage change between financial quarters.

maximum adopted charge, for a financial year, for trunk infrastructure, means the sum of—

- (a) the maximum amount for an adopted charge for the infrastructure—
 - (i) prescribed under the Planning Act, section 111(1); and
 - (ii) in force at the start of the financial year; and
- (b) an amount equal to the amount mentioned in paragraph (a) multiplied by the sum of the percentage increases for each financial quarter since the amount was last prescribed or amended.

percentage increase means the 3-yearly moving average quarterly percentage increase in the PPI.

481 Amendment of s 99BRCH (Working out cost of infrastructure for offset or refund)

Section 99BRCH(2), from ‘under—’—

omit, insert—

under a guideline under the Planning Act, section 115(2).

482 Amendment of s 99BRCHA (Criteria for deciding conversion application)

Section 99BRCHA(2), ‘section 633A(2)’—

omit, insert—

section 116(2)

483 Amendment of s 99BRCI (When charge may be levied and recovered)

(1) Section 99BRCI(1)(c)—

omit.

(2) Section 99BRCI(6) and (7)—

omit, insert—

(6) A charge (a *levied charge*) under an infrastructure charges notice—

- (a) is subject to sections 99BRCJ and 99BRCT; and
- (b) is payable by the applicant; and
- (c) attaches to the premises; and
- (d) becomes payable as provided for under subdivision 4; and
- (e) is subject to any agreement under section 99BRCM(1); and

- (f) may be recovered, in whole or part, by the distributor-retailer from the applicant as a debt.

484 Amendment of s 99BRCJ (Limitation of levied charge)

- (1) Section 99BRCJ(4), definition *charges notice*, paragraph (b), ‘Planning Act’—

omit, insert—

repealed SPA

- (2) Section 99BRCJ(4), definition *infrastructure requirement*, ‘under the Planning Act’—

omit.

485 Amendment of s 99BRCL (Payment triggers generally)

- (1) Section 99BRCL(1)(a), ‘or development requiring compliance assessment’—

omit.

- (2) Section 99BRCL(3), definition *assessable development*, ‘schedule 3’—

omit, insert—

section 44(3)

486 Amendment of s 99BRCN (Application of Planning Act, ch 8, pt 2, div 1, sdiv 5)

- (1) Section 99BRCN, heading, ‘ch 8, pt 2, div 1, sdiv 5’—

omit, insert—

ch 4, pt 2, div 2, sdiv 5

- (2) Section 99BRCN, ‘chapter 8, part 2, division 1, subdivision 5’—

omit, insert—

chapter 4, part 2, division 2, subdivision 5

(3) Section 99BRCN(c), ‘relevant appeal period’—

omit, insert—

appeal period for the infrastructure charges
notice

487 Amendment of s 99BRDB (No conditions on State infrastructure suppliers)

Section 99BRDB(2), definition *State infrastructure*, ‘schedule 3’—

omit, insert—

schedule 2

488 Amendment of s 99BRDE (Application to convert infrastructure to trunk infrastructure)

Section 99BRDE(1) and (2)—

omit, insert—

- (1) The holder of a water approval may apply to convert non-trunk infrastructure to trunk infrastructure.
- (2) The application (the *conversion application*) must be made to the distributor-retailer, in writing, within 1 year after the water approval takes effect.

489 Amendment of s 99BRDN (When water infrastructure agreement binds successors in title)

Section 99BRDN(7), definition *public sector entity*, ‘schedule 3’—

omit, insert—

schedule 2

490 Amendment of s 99BU (Requirements for infrastructure charges register)

Section 99BU(2)(f)—

omit, insert—

- (f) if the charge was levied as a result of a development approval—the approval reference number and the day the approval will lapse;

491 Amendment of s 100G (Documents and information about water approvals and development approvals)

Section 100G—

insert—

- (5) In this section—

development application includes—

- (a) a development application made under the repealed IPA or repealed SPA; and
- (b) a change application made under the Planning Act.

492 Amendment of s 102 (Regulation-making power)

- (1) Section 102(2)(g)—

omit.

- (2) Section 102(2)(h)—

renumber as section 102(2)(g).

493 Amendment of ss 132–135

Sections 132 to 135, ‘Planning Act’—

omit, insert—

repealed SPA

494 Amendment of s 139 (Overdue charges)

Section 139(1)(a) and (b) and (3), ‘Planning Act’—

omit, insert—

repealed SPA

495 Amendment of s 140B (Definitions for pt 10)

(1) Section 140B, definition *concurrency agency*, ‘Planning Act’—

omit, insert—

repealed SPA

(2) Section 140B, definition *unamended Planning Act*, ‘Planning Act’—

omit, insert—

repealed SPA

496 Amendment of s 140C (Development application for development approval—distributor-retailers)

Section 140C(1), (2) and (4), note, ‘Planning Act’—

omit, insert—

repealed SPA

497 Amendment of ss 140D and 140E

Section 140D(1)(a) and (b) and 140E(2) and (3), ‘Planning Act’—

omit, insert—

repealed SPA

498 Amendment of s 140F (Adopted infrastructure charges at commencement continue in effect)

(1) Section 140F(1)(a)(i), (5) and (6), ‘Planning Act’—

omit, insert—

repealed SPA

(2) Section 140F—

insert—

(7) In this section—

SPRP (adopted charges) see the repealed SPA,
section 629(5).

499 Insertion of new ch 6, pt 11

Chapter 6—

insert—

Part 11 Transitional provisions for Planning (Consequential) and Other Legislation Amendment Act 2016

141 Definitions for part

In this part—

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

defined related application means a development application for a development approval, or an existing development application for a development approval under the repealed SPA, that—

- (a) involves a water connection aspect; and
- (b) relates to a development approval given (whether or not to the applicant) under the repealed SPA before 1 July 2014.

existing development application means a development application made under the repealed SPA, to which the Planning Act, section 287 applies.

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

water connection aspect—

- (a) of a development application, means the aspect of the application for which—
 - (i) a distributor-retailer has a referral agency function under the Planning Act, section 295(2)(b); or
 - (ii) a distributor-retailer's participating local government has a referral agency function under section 295(3)(b) of that Act; or
- (b) of an existing development application, means the aspect of the application for which a distributor-retailer or its participating local government had a concurrence agency function under the repealed SPA; or
- (c) of a development approval, means the aspect of the approval that relates to a distributor-retailer's water infrastructure.

142 Particular existing functions of distributor-retailer—SEQ declared master planned area

- (1) Former section 78B continues to apply to an SEQ declared master planned area, as if the amending Act had not been enacted.
- (2) In this section—

SEQ declared master planned area means a declared master planned area under the repealed SPA that—

- (a) is in the SEQ region; and
- (b) immediately before 1 July 2010, was identified in a master planned area declaration under the repealed SPA.

143 Appeals and particular rights to appeal to a building and development dispute resolution committee

- (1) Subsections (2) to (4) apply if—
 - (a) a person started an appeal under former chapter 4C, part 4, division 3 about a matter to a building and development dispute resolution committee; and
 - (b) the appeal was not decided before the repealed SPA was repealed.
- (2) If, before the repealed SPA was repealed, a building and development dispute resolution committee had been established for the appeal proceeding—
 - (a) former chapter 4C, part 4, division 3 and the repealed SPA continue to apply in relation to the appeal; and
 - (b) the committee's decision on the appeal is taken to be a decision of a development tribunal on the appeal.
- (3) Subsection (4) applies if a building and development dispute resolution committee had not been established for the appeal proceeding before the repealed SPA was repealed.
- (4) Chapter 4C, part 4, division 3 and the Planning Act apply in relation to the appeal, as if the person had started an appeal under chapter 4C,

part 4, division 3 to a development tribunal about the matter.

- (5) Subsections (6) and (7) apply if—
- (a) immediately before the commencement, a person had a right to appeal under former chapter 4C, part 4, division 3 to a building and development dispute resolution committee about a matter; and
 - (b) the person had not, before the commencement, started an appeal under former chapter 4C, part 4, division 3 to a building and development dispute resolution committee in exercise of the right.
- (6) The person may, under chapter 4C, part 4, division 3, appeal to a development tribunal about the matter.
- (7) Chapter 4C, part 4, division 3 and the Planning Act apply in relation to the appeal.
- (8) In this section—

building and development dispute resolution committee means a building and development dispute resolution committee under the repealed SPA.

144 Appeals and particular rights to appeal to Planning and Environment Court

- (1) Subsection (2) applies if—
- (a) a person started an appeal under former chapter 4C, part 4, division 4 about a matter to the Planning and Environment Court; and
 - (b) the appeal had not been decided before the repealed SPA was repealed.

-
- (2) Former chapter 4C, part 4, division 4 and the repealed SPA continue to apply in relation to the appeal.
 - (3) Subsections (4) and (5) apply if—
 - (a) immediately before the commencement, a person had a right to appeal under former chapter 4C, part 4, division 4 to the Planning and Environment Court about a matter; and
 - (b) the person had not, before the commencement, started an appeal under former chapter 4C, part 4, division 4 to the Planning and Environment Court in exercise of the right.
 - (4) The person may, under chapter 4C, part 4, division 4, appeal to the Planning and Environment Court about the matter.
 - (5) Chapter 4C, part 4, division 4 applies in relation to the appeal.

Note—

See also the *Planning and Environment Court Act 2016*, section 76.

145 Existing board decisions

- (1) This Act applies to an existing board decision as if the board decision was made under section 99BRCF.
- (2) To remove any doubt, it is declared that the decision was made when it was made under this Act as in force immediately before the commencement.
- (3) In this section—
existing board decision means a board decision—

- (a) made under section 99BRCF before the commencement; and
- (b) in force immediately before the commencement.

146 Submission made under former s 99BRCN

- (1) This section applies if—
 - (a) before the commencement, a person made a submission to a distributor-retailer about an infrastructure charges notice under the repealed SPA, section 641, as applied by former section 99BRCN; and
 - (b) the distributor-retailer had not made a decision on the submission before the commencement.
- (2) Former section 99BRCN continues to apply to the submission as if the amending Act had not been enacted.

147 Development approval involving a water connection aspect given after commencement of Planning Act

- (1) This section applies to a development approval involving a water connection aspect if—
 - (a) the approval is given after the commencement of the Planning Act; and
 - (b) the approval is for a material change of use of premises, or reconfiguring a lot, under that Act; and
 - (c) either—
 - (i) the approval was given for an existing development application and, immediately before the commencement of the Planning Act,

-
- the repealed SPA, section 959B applied to the application; or
- (ii) the approval was given for a defined related application.
- (2) On and from the development approval taking effect—
- (a) the Planning Act does not apply to the water connection aspect of the development approval; and
- (b) the water connection aspect of the development approval is taken to be a water approval for a staged water connection; and
- (c) any conditions of the development approval relating to the water connection aspect are taken to be conditions of the water approval.

148 Defined related application made after commencement—water approval conditions

- (1) This section applies to a defined related application made after the commencement.
- (2) For deciding the water connection aspect of the application—
- (a) the Planning Act, chapter 4 and section 66(1)(c) and (f) do not apply to the application; and
- (b) section 99BRAJ(2)(h), (3) and (4) and chapter 4C, part 7, divisions 4 and 6 (each an *applied provision*) apply to the application as if a reference in an applied provision to—
- (i) an application for a water approval were a reference to a defined related application; and

- (ii) an applicant for a water approval were a reference to an applicant for a defined related application; and
 - (iii) a water approval were a reference to a development approval; and
 - (iv) a water approval condition were a reference to a condition of a development approval; and
 - (v) a distributor-retailer were a reference to a referral agency for the defined related application; and
- (c) the applied provisions apply to the application with any other necessary changes.
- (3) Subsection (4) applies if a distributor-retailer or a participating local government—
 - (a) is a referral agency under the Planning Act for a defined related application that is a development application; or
 - (b) was a concurrence agency under the repealed SPA for a defined related application that is an existing development application.
- (4) The distributor-retailer or participating local government may, under chapter 4C, part 7, impose on a development approval given for the defined related application a condition about infrastructure for the distributor-retailer's water infrastructure, as if the development approval were a water approval.
- (5) To remove any doubt, it is declared that if a condition is imposed on a development approval under subsection (4), the condition is a condition of the development approval.

149 Infrastructure charges notice for water connection aspect of development approval taken to be water approval

- (1) This section applies if a water connection aspect of a development approval is taken to be a water approval for a staged water connection under section 147(2)(b).
- (2) For section 99BRCI(3), a reference in that section to a decision notice under section 99BRAI is taken to be a reference to the decision notice under the Planning Act for the development approval.
- (3) Section 140E(3) and (4) applies to the development approval as if a reference in section 140E(3) to the repealed SPA were a reference to the repealed SPA or the Planning Act.

150 Infrastructure charges notice for particular other development approval

- (1) This section applies if—
 - (a) notice (the *original notice*) levying a charge is given under the Planning Act, or was given under the repealed SPA, for a development approval—
 - (i) that was given before 1 July 2014; and
 - (ii) the water connection aspect of which did not become a water approval for a staged water connection under section 135(2); and
 - (b) a following application is approved under the Planning Act—
 - (i) a change application under that Act to change the development approval;

- (ii) an extension application under that Act for any part of the development approval.
- (2) The distributor-retailer for the water infrastructure to which the development approval relates may give the holder of the approval an infrastructure charges notice under chapter 4C, part 7, division 3, subdivision 3 to replace the original notice.
- (3) Chapter 4C, part 7, division 3, subdivision 3 applies to the giving of the infrastructure charges notice, as if—
 - (a) the original notice were an infrastructure charges notice; and
 - (b) a reference in chapter 4C, part 7, division 3, subdivision 3 to a water approval were a reference to a development approval.
- (4) However, section 99BRDC does not apply to an infrastructure charges notice given under subsection (2).

151 Delegations

- (1) Subsection (2) applies to—
 - (a) a defined related application made after the commencement of the Planning Act; and
 - (b) a development approval involving a water connection aspect.
- (2) Section 132(2) to (4) applies to the application and approval as if—
 - (a) a reference in section 132(2) to a development application were a reference to a defined related application; and
 - (b) a reference in section 132(2) or (3) to a development approval were a reference to a

development approval involving a water connection aspect.

- (3) Subsection (4) applies to a compliance assessment mentioned in the repealed SPA, section 959F if, under the Planning Act, the compliance assessment may continue after the commencement of that Act.
- (4) Section 133(2) and (3) applies to the compliance assessment.

500 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *building and development committee*, *compliance assessment*, *development application*, *ecological sustainability*, *infrastructure agreement*, *Planning Act*, *planning scheme*, *PPI index* and *SPRP (adopted charges)*—
omit.
- (2) Schedule—
insert—

development application means a development application under the Planning Act.

development approval means a development approval under the Planning Act.

development tribunal means a tribunal established under the Planning Act, section 234.

ecological sustainability means the balance that integrates—

- (a) protection of ecological processes and natural systems at local, regional, State and wider levels; and
- (b) economic development; and
- (c) maintenance of the cultural, economic, physical and social wellbeing of people and communities.

infrastructure agreement means any of the following agreements—

- (a) an infrastructure agreement under the Planning Act;
- (b) an infrastructure agreement under the repealed SPA;
- (c) an infrastructure agreement under the repealed IPA, mentioned in the repealed SPA, section 840;
- (d) an infrastructure agreement under the repealed *Local Government (Planning and Environment) Act 1990* to which the repealed SPA, section 855 applied;
- (e) an agreement to which the repealed SPA, section 856 applied.

Planning Act means the *Planning Act 2016*.

planning scheme means a planning scheme under the Planning Act.

PPI, for chapter 4C, part 7, see section 99BRCC.

repealed IPA means the repealed *Integrated Planning Act 1997*.

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

- (3) Schedule, definition *Allconnex infrastructure funding matter*, ‘Planning Act’—

omit, insert—

repealed SPA

- (4) Schedule, definition *charges breakup*, ‘section 627’—

omit, insert—

schedule 2

- (5) Schedule, definition *conversion application*, ‘section 99BRDE(1)’—

omit, insert—

section 99BRDE(2)

- (6) Schedule, definition *development infrastructure*, ‘section 627’—

omit, insert—

schedule 2

- (7) Schedule, definition *infrastructure charges notice*, paragraph (b), ‘section 643(1)’—

omit, insert—

section 124(3)

- (8) Schedule, definition *premises*, paragraph (b)(i), ‘section 10(1)’—

omit, insert—

schedule 2

- (9) Schedule, definition *reconfiguring a lot*, ‘section 10(1)’—

omit, insert—

schedule 2

Part 56

Amendment of Southern Moreton Bay Islands Development Entitlements Protection Act 2004

501 Act amended

This part amends the *Southern Moreton Bay Islands Development Entitlements Protection Act 2004*.

502 Amendment of s 4 (What is an SMBI application)

Section 4, ‘development application (superseded planning scheme)’—

omit, insert—

superseded planning scheme application

503 Amendment of s 4A (What is an SMBI request)

(1) Section 4A, ‘made under the *Sustainable Planning Act 2009*, section 95(1)(a)’—

omit, insert—

mentioned in the Planning Act, section 29(4)(b)

(2) Section 4A(a), ‘a superseded’—

omit, insert—

the superseded

504 Amendment of s 7 (Modified application of Sustainable Planning Act 2009)

(1) Section 7, heading, ‘Sustainable Planning Act 2009’—

omit, insert—

Planning Act

(2) Section 7(1)—

omit, insert—

(1) Despite the Planning Act, section 29(6), if a person makes an SMBI request, the local government must agree to the request.

(3) Section 7(2), ‘*Sustainable Planning Act 2009*, chapter 3, part 2, division 5’—

omit, insert—

Planning Act, chapter 2, part 4, division 1

(4) Section 7(3)—

omit, insert—

- (3) For the Planning Act, an SMBI application must be assessed under the superseded planning scheme.

- (5) Section 7(4), ‘*Sustainable Planning Act 2009*, section 245’—

omit, insert—

Planning Act, section 73

- (6) Section 7(5), ‘*Sustainable Planning Act 2009*, section 714’—

omit, insert—

Planning Act, section 262

505 Amendment of s 8 (Certain rights unaffected)

- (1) Section 8, ‘*Sustainable Planning Act 2009*, section 705’—

omit, insert—

Planning Act, chapter 2, part 4, division 2 in relation to a public purpose change affecting the land

- (2) Section 8—

insert—

- (2) In this section—

public purpose change see the Planning Act, section 30(3).

506 Insertion of new s 12

After section 11—

insert—

12 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

- (1) Subsection (2) applies to an SMBI application or SMBI request, as defined in this Act immediately

before the commencement, made before the commencement.

- (2) This Act, as in force immediately before the commencement, continues to apply in relation to the SMBI application or SMBI request as if the *Planning (Consequential) and Other Legislation Amendment Act 2016* had not been enacted.

Note—

See also the Planning Act, chapter 8, part 1.

- (3) Subsection (4) applies to a development approval in relation to an SMBI application, as defined in this Act immediately before the commencement, given before the commencement.
- (4) Section 7(4), as in force immediately before the commencement, continues to apply in relation to the development approval.

507 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *assessment manager*, *development*, *development application*, *development application (superseded planning scheme)*, *development approval*, *development permit* and *superseded planning scheme—*

omit.

- (2) Schedule—

insert—

assessment manager, for a development application, means the person who is the assessment manager under the Planning Act for the application.

development see the Planning Act, schedule 2.

development application means a development application under the Planning Act.

development approval means a development approval under the Planning Act.

development permit means a development permit under the Planning Act.

Planning Act means the *Planning Act 2016*.

superseded planning scheme means the planning scheme in force for the Redland local government area immediately before the Redland's IPA planning scheme took effect.

superseded planning scheme application means a development application—

- (a) for development to which the superseded planning scheme applies; and
- (b) made to the council as assessment manager for the application; and
- (c) made within 10 years after the day the Redland's IPA planning scheme had effect.

Part 57

Amendment of State Development and Public Works Organisation Act 1971

508 Act amended

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

509 Amendment of s 24 (Definitions for pt 4)

Section 24, definition *assessment manager*—
omit.

[s 510]

510 Amendment of s 26 (Declaration of coordinated project)

Section 26(4)—

omit, insert—

- (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.

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

Section 34G(2)(c)(i) and (iii)(A), ‘Sustainable’—

omit.

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

Section 35A(8), definition *relevant approval*, paragraph (g), ‘Sustainable’—

omit.

513 Amendment of pt 4, div 4, hdg (Relationship with Sustainable Planning Act)

Part 4, division 4, heading, ‘Sustainable’—

omit.

514 Amendment of s 36 (Application of sdiv 1)

(1) Section 36(a)—

omit, insert—

- (a) the project involves development requiring a development approval; and

-
- (aa) 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

- (2) Section 36(aa) and (b)—
renumber as section 36(b) and (c).

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

- (1) Section 37(1)—
omit, insert—

- (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;

[s 516]

- (ii) any additional information, required by the Coordinator-General for the project, that was publicly notified under section 34C(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.
- (2) Section 37(2), ‘Sustainable’—
omit.
- (3) Section 37(3), definition *material change of use*, ‘Sustainable Planning Act, section 10(1)’—

omit, insert—

Planning Act, schedule 2

516 Amendment of s 38 (When the decision stage for the project starts under IDAS)

- (1) Section 38, heading—

omit, insert—

38 When decision-making period for relevant application starts

- (2) Section 38(1), from ‘Despite’ to ‘IDAS’—

omit, insert—

If the relevant application is a development application, the decision-making period

(3) Section 38—

insert—

(1A) 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.

(4) Section 38(1A) and (2)—

renumber as section 38(2) and (3).

517 Amendment of s 39 (Application of Coordinator-General’s report to IDAS)

(1) Section 39, heading, ‘IDAS’—

omit, insert—

assessment of relevant application under Planning Act

(2) Section 39(1) to (4)—

omit, insert—

(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—

[s 517]

- (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).
- (4A) The report may state that a development approval must not be given for the development only if the Coordinator-General is satisfied there are environmental effects in relation to the development that can not be addressed adequately.
- (3) Section 39(6)(a), from ‘has taken effect’—
- omit, insert—*
- starts to have effect under the Planning Act, section 71; and

(4) Section 39(6)(b)—

omit, insert—

(b) the condition is taken to be a condition that a referral agency requires be imposed on any development approval under the Planning Act.

(5) Section 39(7), from ‘concurrence’ to ‘approval,’—

omit, insert—

condition a referral agency has required be imposed on the approval under the Planning Act,

(6) Section 39(4A) to (7)—

renumber as section 39(5) to (8).

518 Replacement of s 40 (Assessment manager to be given copy of Coordinator-General’s report)

Section 40—

omit, insert—

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.

519 Amendment of s 41 (Concurrence agencies for conditions of development approvals)

(1) Section 41, heading, ‘Concurrence’—

omit, insert—

Referral

(2) Section 41(1) and (2), ‘concurrence agency’—

[s 520]

omit, insert—

referral agency

520 Omission of s 42 (Changing or cancelling a condition of a development approval)

Section 42—

omit.

521 Replacement of s 42A (Application of Coordinator-General's change report to IDAS)

Section 42A—

omit, insert—

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—
 - (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

[s 522]

- (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.

522 Replacement of pt 4, div 4, sdiv 2, hdg (Community infrastructure)

Part 4, division 4, subdivision 2, heading—

omit, insert—

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

523 Amendment of s 43 (Application of Coordinator-General's report to designation)

- (1) Section 43(1), from 'land'—

omit, insert—

premises for which a designation under the
Planning Act, chapter 2, part 5 may be made.

- (2) Section 43(2), 'Sustainable Planning Act, section 202(a)'—

omit, insert—

Planning Act, section 35(2)(a) or (b)

524 Amendment of s 50 (Application of div 7)

Section 50, 'Sustainable'—

omit.

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

Section 54A(a), ‘Sustainable’—

omit.

526 Amendment of s 54C (Provision for what conditions may be imposed)

Section 54C, ‘Sustainable Planning Act, sections 345(1) and 346(1) apply’—

omit, insert—

Planning Act, section 65 applies

527 Amendment of s 54D (Effect of imposed conditions)

(1) Section 54D(2), ‘Sustainable Planning Act, section 580’—

omit, insert—

Planning Act, section 163

(2) Section 54D(5)(a)—

omit, insert—

(a) the Planning Act, section 226 applies in relation to an offence against section 163 of that Act; and

528 Amendment of s 54F (Provision about enforcement orders under the Sustainable Planning Act)

(1) Section 54F, heading, ‘Sustainable’—

omit.

(2) Section 54F(1)(a)(i)—

omit, insert—

(i) the Planning Act, chapter 5, part 5; or

[s 529]

529 Amendment of s 54G (Declaration-making powers)

- (1) Section 54G(1), ‘Sustainable Planning Act, section 456(1) or (2)’—

omit, insert—

Planning and Environment Court Act 2016,
section 11

- (2) Section 54G(3) and (4)—

omit, insert—

- (3) The court may also make an order about any declaration it makes under subsection (2).

- (3) Section 54G(5)—

renumber as section 54G(4).

530 Amendment of s 54ZM (Declarations)

- (1) Section 54ZM(1), ‘Environmental’—

omit, insert—

Environment

- (2) Section 54ZM(2)—

omit, insert—

- (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.

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

- (1) Section 76D—

insert—

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

- (2) Section 76D, definition *decision maker*, paragraph (a), example, ‘Sustainable’—

omit.

- (3) Section 76D, definition *decision maker*, paragraph (b), examples—

omit, insert—

Example of a decision maker for paragraph (b)—

a referral agency

- (4) Section 76D, definition *prescribed decision*, paragraph 2, examples, first dot point, ‘Sustainable’—

omit.

- (5) Section 76D, definition *prescribed process*, ‘in a stage of IDAS’—

omit, insert—

under the development assessment process under the Planning Act

- (6) Section 76D, definition *prescribed process*, example—

omit.

532 Amendment of s 76I (Progression notice)

Section 76I(2)(b)—

omit, insert—

- (b) identify the process; and

533 Amendment of s 76J (Notice to decide)

Section 76J(7)—

omit, insert—

- (7) If the prescribed decision relates to an application for a development approval, or a change application for a development approval (other

[s 534]

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.

534 Amendment of s 76M (Providing assistance or recommendations)

Section 76M(3), from ‘infrastructure’ to ‘part 1, applies’—

omit, insert—

trunk infrastructure or non-trunk infrastructure
under the Planning Act

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

(1) Section 76N(d)—

omit, insert—

(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

(2) Section 76N—

insert—

- (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.

536 Amendment of s 76O (Coordinator-General's decision)

Section 76O(4B)—

omit.

537 Amendment of s 76P (Effects of decision)

Section 76P(1)(b), 'section 76Q'—

omit, insert—

section 76Q(1)

538 Amendment of s 76Q (Notice of decision)

(1) Section 76Q—

insert—

- (1A) 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.

(2) Section 76Q(2), 'The notice'—

omit, insert—

A notice under this section

[s 539]

- (3) Section 76Q(1A) and (2)—
renumber as section 76Q(2) and (3).

539 Amendment of s 76R (Report about decision)

Section 76R(2)(c) and (3), ‘section 76Q’—

omit, insert—

section 76Q(1)

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

Section 85—

insert—

- (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.

541 Amendment of s 140 (Powers in respect of particular works on foreshore and under waters)

Section 140(1)(b), ‘exempt development under the Sustainable’—

omit, insert—

accepted development under the

542 Amendment of s 157A (What is an *enforceable condition*)

Section 157A(1)(b), from ‘as community infrastructure’—

omit, insert—

under the Planning Act, chapter 2, part 5;

543 Amendment of s 157D (Right of appeal)

Section 157D(2), note, ‘Sustainable Planning Act, chapter 7, part 1, divisions 11 to 13’—

omit, insert—

Planning and Environment Court Act 2016

544 Amendment of s 157M (Powers about enforcement orders)

Section 157M(4), note, ‘Sustainable Planning Act, section 457’—

omit, insert—

Planning and Environment Court Act 2016, part 6

545 Amendment of s 157N (Offence to contravene enforcement order)

Section 157N, note, ‘Sustainable Planning Act, section 439 (Contempt and contravention of orders)’—

omit, insert—

Planning and Environment Court Act 2016, section 36

546 Insertion of new pt 9, div 9

Part 9—

insert—

**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.

[s 547]

(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.

547 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *advice agency, applicable code, assessment manager, authorised development, change application, concurrence agency, decision maker, IDAS, Planning and Environment Court, relevant local government* and *Sustainable Planning Act*—

omit.

(2) Schedule 2—

insert—

assessment manager, for a development application, means the person who is the assessment manager for the application under the Planning Act.

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.

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).

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 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.

development application means a development application under the Planning Act.

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

Planning Act means the *Planning Act 2016*.

referral agency see the Planning Act, section 54(2).

[s 547]

relevant application, for part 4, division 4, see section 36(b).

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.

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.

- (3) Schedule 2, definition *building work*, ‘Sustainable Planning Act, section 10(1)’—

omit, insert—

Planning Act, schedule 2

- (4) Schedule 2, definition *development approval*, ‘Sustainable’—
omit.

- (5) Schedule 2, definition *operational work*, ‘Sustainable Planning Act, section 10(1)’—

omit, insert—

Planning Act, schedule 2

- (6) Schedule 2, definition *reconfiguring a lot*, ‘Sustainable Planning Act, section 10(1)’—

omit, insert—

Planning Act, schedule 2

Part 58 **Amendment of Statutory Instruments Act 1992**

548 Act amended

This part amends the *Statutory Instruments Act 1992*.

549 Amendment of sch 2A (Subordinate legislation to which part 7 does not apply)

Schedule 2A, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning and Environment Court Act 2016

Part 59 **Amendment of Supreme Court of Queensland Act 1991**

550 Act amended

This part amends the *Supreme Court of Queensland Act 1991*.

551 Amendment of long title

Long title, after ‘Magistrates Courts’—

insert—

, and to Planning and Environment Court fees and
costs

552 Amendment of s 92 (Regulation-making power)

Section 92(2)(a), ‘or Magistrates Courts’—

omit, insert—

, Magistrates Courts or Planning and Environment Court

Part 60 **Amendment of Surat Basin Rail (Infrastructure Development and Management) Act 2012**

553 Act amended

This part amends the *Surat Basin Rail (Infrastructure Development and Management) Act 2012*.

554 Amendment of s 34 (Impact of change of management of local government road on the railway)

Section 34(6), definition *development approval*, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act 2016

555 Amendment of s 48 (Power to require information from local governments)

Section 48(1)(b), after ‘under the’—

insert—

Planning Act 2016 or the repealed

Part 60A **Amendment of Sustainable Ports Development Act 2015**

555A Act amended

This part amends the *Sustainable Ports Development Act 2015*.

555B Amendment of s 21 (Content of port overlay)

Section 21(2)(a)(ii) and (iii)—

omit, insert—

- (ii) state that development in the master planned area is, under that Act, accepted development, assessable development requiring code or impact assessment, or prohibited development; or
- (iii) state assessment benchmarks that assessable development under the port overlay must be assessed against; or
- (iv) state the matters an assessment manager must have regard to in assessing assessable development under the port overlay; or

555C Amendment of s 30 (Application of Planning Act)

Section 30(4) to (7)—

omit, insert—

- (4) Subsections (5) and (6) apply to a development application or change application to the extent the application is in relation to development—
 - (a) in a priority port's master planned area; and

[s 555D]

- (b) stated in the port overlay for the master planned area to be assessable development.
- (5) The decision-maker must, in assessing the application under the Planning Act—
 - (a) if the port overlay states assessment benchmarks for the assessable development—assess the development against the assessment benchmarks; and
 - (b) if the port overlay states matters an assessment manager must have regard to in assessing the assessable development—have regard to the stated matters.
- (6) The decision-maker's decision under the Planning Act about the application must not be inconsistent with the port overlay.
- (7) Subsection (5) does not limit the Planning Act, section 60, 61, 81 or 82.
- (8) In this section—

decision-maker means—

 - (a) for a development application—the assessment manager for the application; or
 - (b) for a change application—the responsible entity for the application.

555D Amendment of s 34 (Particular applications for port facilities must be refused)

- (1) Section 34(5), definition *assessment manager*—

insert—

 - (c) for a change application—the responsible entity for the application.
- (2) Section 34(5), definition *development application*—

insert—

-
- (c) a change application, other than a minor change application.

555E Amendment of s 42 (Existing development applications)

- (1) Section 42, heading—

omit, insert—

42 Existing development application or change application

- (2) Section 42(1), ‘Subsection (2)’—

omit, insert—

This section

- (3) Section 42—

insert—

- (1A) This section also applies if, immediately before a port overlay for a priority port’s master planned area has effect—

- (a) a change application had been made under the Planning Act to change a development approval—

(i) that already approves development in the master planned area; or

(ii) to approve development in the master planned area, if the approval does not already approve development in the master planned area; and

- (b) the application had not lapsed under the Planning Act; and

- (c) the application had not been decided.

- (4) Section 42(1A) and (2)—

renumber as section 42(2) and (3).

[s 555F]

555F Amendment of pt 5, hdg (Transitional provision)

Part 5, heading—

omit, insert—

Part 5 Transitional provisions

**Division 1 Transitional provision for
Act No. 28 of 2015**

555G Insertion of new pt 5, div 2

After section 49—

insert—

**Division 2 Transitional provision for
Planning (Consequential)
and Other Legislation
Amendment Act 2016**

50 Existing development application

- (1) Subsection (2) applies to an existing development application mentioned in former section 30(4).
- (2) Former section 30(5) to (7) continues to apply in relation to the application, as if the amending Act had not been enacted and the repealed Planning Act had not been repealed.
- (3) Subsection (4) applies to an existing development application—
 - (a) mentioned in former section 34(1); or
 - (b) for an approval mentioned in former section 35(1).
- (4) This Act as in force immediately before the commencement continues to apply in relation to the application, as if the amending Act had not been enacted.

-
- (5) Subsection (6) applies if, immediately before a port overlay for a priority port's master planned area had effect—
- (a) an existing development application had been made for premises in the master planned area; and
 - (b) the application was a properly made application under the repealed Planning Act and had not lapsed under that repealed Act; and
 - (c) the application had not been decided.
- (6) Former section 42(2) continues to apply in relation to the application, as if the amending Act had not been enacted.
- (7) 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 Planning Act, to which the Planning Act, section 287 applies.

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

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

555H Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *assessment manager* and *Planning Act*—
omit.
- (2) Schedule 1—

[s 555H]

insert—

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

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

assessment manager, for a development application, means the assessment manager under the Planning Act for the application.

change application means a change application under the Planning Act.

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

Planning Act means the *Planning Act 2016*.

responsible entity, for a change application, means the responsible entity under the Planning Act for the application.

- (3) Schedule 1, definition *approval*—

insert—

(aa) an approval under the Planning Act of a change application, other than a minor change application; or

- (4) Schedule 1, definition *approval*, paragraphs (aa) to (f)—

renumber as paragraphs (b) to (g).

- (5) Schedule 1, definition *approving authority*—

insert—

(aa) for an approval under the Planning Act of a change application—the responsible entity for the change application; or

- (6) Schedule 1, definition *approving authority*, paragraphs (aa) to (f)—

renumber as paragraphs (b) to (g).

- (7) Schedule 1, definition *development*, ‘section 7’—
omit, insert—
 schedule 2
- (8) Schedule 1, definition *EIS process*, paragraph (a), ‘Planning Act’—
omit, insert—
 repealed *Sustainable Planning Act 2009*

Part 61 **Amendment of Torres Strait Islander Cultural Heritage Act 2003**

556 Act amended

This part amends the *Torres Strait Islander Cultural Heritage Act 2003*.

557 Omission of s 89 (Cultural heritage management plan needed under Planning Act)

Section 89—
omit.

Part 62 **Amendment of Torres Strait Islander Land Act 1991**

558 Act amended

This part amends the *Torres Strait Islander Land Act 1991*.

[s 559]

559 Amendment of s 28B (Definitions for pt 2A)

Section 28B, definition *planning scheme*—

omit, insert—

planning scheme means a planning scheme under the *Planning Act 2016*.

Part 63 Amendment of Transport Infrastructure Act 1994

560 Act amended

This part amends the *Transport Infrastructure Act 1994*.

561 Amendment of s 42 (Impact of certain local government decisions on State-controlled roads)

Section 42(2)—

omit, insert—

(2) Subsection (1) does not apply if the chief executive or planning chief executive considered the works or changes as part of considering—

(a) an application for a development approval;
or

(b) a change application.

562 Amendment of s 49 (Assessment of impacts on State-controlled roads from certain activities)

Section 49(1)(b)(ii)—

omit, insert—

- (ii) development categorised under a planning scheme as assessable development for the Planning Act; or

563 Amendment of s 49A (Impact of particular development and State-controlled roads)

- (1) Section 49A(1)—

omit, insert—

- (1) This section applies if the chief executive is—
 - (a) a referral agency for a development application; or
 - (b) the responsible entity or a referral agency for a change application.

- (2) Section 49A(3), ‘assessment manager or referral agency’—

omit, insert—

responsible entity or referral agency

- (3) Section 49A(4), ‘section 282 and chapter 6, part 5, division 2’—

omit, insert—

sections 55, 81 and 82

563A Insertion of new s 62A

After section 62—

insert—

62A Particular applications taken to be application for decision under s 62(1)

- (1) This section applies if—
 - (a) a development application or a change application (each a *planning application*) is made under the Planning Act; and
 - (b) the planning chief executive is—

[s 563A]

- (i) if the planning application is a development application—the assessment manager or a referral agency for the application; or
 - (ii) if the planning application is a change application—the responsible entity for the application; and
- (c) the proposed development involves constructing or changing a vehicular access between the land the subject of the application (the *subject land*) and a State-controlled road; and
- (d) either—
- (i) the chief executive has not made a decision under section 62(1) in relation to the subject land; or
 - (ii) the chief executive has made a decision under section 62(1) in relation to the subject land, but the chief executive did not take the proposed development into account in making the decision.
- (2) The planning application is taken to also be an application for a decision under section 62(1).
- (3) If the planning application lapses, or is changed or withdrawn, under the Planning Act, the application for a decision under section 62(1) also lapses, or is taken to have been changed or withdrawn.
- (4) To remove any doubt, it is declared that this section applies even if the applicant for the planning application does not have an interest in the subject land.
- (5) In this section—
- proposed development* means—

- (a) for a development application—the development the subject of the application; or
- (b) for a change application—the development the subject of the development approval to which the change application relates, as the development is proposed to be changed under the change application.

563B Replacement of s 63 (Chief executive may require additional information from applicant)

Section 63—

omit, insert—

63 Request for information

- (1) The chief executive may, by written notice, ask an applicant for a decision under section 62(1) for further information needed to decide the application.
- (2) The applicant must give the requested information to the chief executive by—
 - (a) the day stated in the notice; or
 - (b) a later day agreed between the applicant and the chief executive.
- (3) If the chief executive asks, under this section, for further information about an application, the chief executive may refuse to decide the application until the applicant gives the required information.
- (4) However, subsection (3) does not apply to a planning application that, under section 62A(2), is taken to also be an application for a decision under section 62(1).

[s 563C]

563C Amendment of s 64 (Decision under s 62(1) may impose construction or financial obligation)

- (1) Section 64, from ‘A decision’ to ‘conditions—’

omit, insert—

A decision under section 62(1) made on an application may include either or both of the following conditions—

- (2) Section 64—

insert—

- (2) However, this section does not apply if the application is made in compliance with a direction given under section 69.

563D Amendment of s 67 (Notice of decision under s 62(1))

- (1) Section 67(1) and (1A)—

omit, insert—

- (1) If the chief executive makes a decision under section 62(1), the chief executive must give written notice of the decision to—
- (a) if the decision is on a planning application that, under section 62A(2), is taken to also be an application for a decision under section 62(1)—the planning chief executive; or
 - (b) otherwise, each of the following persons—
 - (i) the owner of the land to which the decision relates;
 - (ii) the occupier of the land to which the decision relates;
 - (iii) any person who may have applied for the decision.

- (2) Section 67(2)(c)—

omit, insert—

- (c) if the notice is given to the planning chief executive—that the applicant for the planning application is bound by the decision because of section 70;
 - (ca) if the notice is given to a person mentioned in subsection (1)(b)—that the person is bound by the decision because of section 70;
- (3) Section 67(2)(ca) to (e)—
renumber as section 67(2)(d) to (f).

- (4) Section 67(2A) to (4)—

omit, insert—

- (3) Subsection (4) applies if the decision is not a decision sought by—
 - (a) for a decision on a planning application mentioned in subsection (1)(a)—the applicant; or
 - (b) for any other decision—the person to whom the notice is given.
- (4) The notice must be accompanied by an information notice for the decision.
- (5) Subsections (6) to (8) apply if the decision is on a planning application mentioned in subsection (1)(a).
- (6) The notice—
 - (a) must be given to the planning chief executive at least 1 business day before the end of the response period for the planning application; and
 - (b) must then be given by the planning chief executive to the applicant when the planning chief executive gives the applicant—

[s 563D]

- (i) a referral agency's response under the Planning Act for the planning application; or
 - (ii) a decision notice, under the Planning Act, section 63 or 83, for the planning application; and
- (c) is taken to have been given to the applicant by the chief executive on the day the notice is given to the applicant by the planning chief executive.
- (7) If a development approval, or changed development approval, is given for the planning application, the decision under section 62(1)—
 - (a) starts to have effect when the approval has effect; and
 - (b) stops having effect if the approval lapses or is cancelled; and
 - (c) replaces any earlier decision made under section 62(1) in relation to the land.
- (8) If the planning application is refused, the decision under section 62(1) does not take effect.
- (9) In this section—
decision-making period means—
 - (a) for a development application—the period allowed under the development assessment rules under the Planning Act for the assessment manager to decide the application, including any extension of that period under the rules; or
 - (b) for a change application—the period allowed under the development assessment rules under the Planning Act for the responsible entity to decide the application, including any extension of that period under the rules.

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

referral agency's response period, for a development application, means the period stated in the development assessment rules under the Planning Act for complying with section 56(4) of that Act for the application, including any extension of that period under the rules.

response period, for a planning application, means—

- (a) if the planning application is a development application for which the planning chief executive is a referral agency—the referral agency's response period for the application; or
- (b) if the planning application is a development application for which the planning chief executive is the assessment manager or a change application other than a minor change application—the decision-making period for the application; or
- (c) if the planning application is a minor change application—the period allowed under the Planning Act, section 81(5) or (6) for deciding the application, including any extension of that period under section 81(7) of that Act.

563E Insertion of new s 67A

After section 67—

insert—

[s 564]

67A Request for copy of decision made under s 62(1)

- (1) A person who has an interest in land may, in writing, ask the chief executive to give the person a copy of a decision in force under section 62(1) for the land.
- (2) If a person asks the chief executive, under subsection (1), for a copy of a decision, the chief executive must give the person the copy.

564 Amendment of s 74 (Cases where compensation not payable)

(1) Section 74—

insert—

(5A) The chief executive is not liable to pay compensation for the effect of a decision under section 62(1) made in relation to a planning application—

(a) if—

- (i) the planning application relates to a material change of use or reconfiguring a lot; and
- (ii) the decision has the effect mentioned in section 73(1)(a) or (b); or

(b) if—

- (i) the planning application relates to development that has had, or is likely to have, a significant impact on traffic safety or efficiency on the State-controlled road to which the decision relates; and
- (ii) the decision has the effect mentioned in section 73(1)(b); or

-
- (c) if the decision has the effect mentioned in section 73(2).
- (2) Section 74(6), definition *development*—
omit.
- (3) Section 74(6), definition *premises*, ‘schedule 3’—
omit, insert—
schedule 2

565 Amendment of s 75 (Conditions in development approval)

- (1) Section 75, heading—
omit, insert—

75 Conditions in particular development approvals

- (2) Section 75(a), after ‘approval’—
insert—

given under the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997*

- (3) Section 75(b)—
omit, insert—

- (b) the conditions were included because of a referral agency’s response given by the chief executive; and

566 Amendment of s 85B (Application of Queensland Heritage Act 1992 for development for a franchised road)

- Section 85B(3), definition *development*, ‘section 7’—
omit, insert—

schedule 2

[s 567]

567 Amendment of s 93A (Application of Queensland Heritage Act 1992 for development for a toll road)

Section 93A(3), definition *development*, ‘section 7’—

omit, insert—

schedule 2

568 Amendment of s 247 (Chief executive taken to be owner of rail corridor land and non-rail corridor land for particular circumstances under Planning Act)

Section 247(1)—

omit, insert—

- (1) This section applies if—
 - (a) the planning Minister or a local government proposes to make, amend, extend the duration of or repeal a designation of premises under the Planning Act, chapter 2, part 5 and the premises is, or includes, rail corridor land or non-rail corridor land; or
 - (b) an application made under the Planning Act—
 - (i) relates to rail corridor land or non-rail corridor land; and
 - (ii) must, under that Act, be accompanied by evidence of the consent of the owner of the premises to which the application relates, to the making of the application; or
 - (c) an application made under the Planning Act relates to rail corridor land or non-rail corridor land, or premises that adjoin that land, and the applicant must, under that Act, give notice of the application to—
 - (i) the owner of the premises to which the application relates; or

- (ii) the owner of premises adjoining the premises to which the application relates.

569 Amendment of s 258 (Impact of particular development and railways)

- (1) Section 258(1)—

omit, insert—

- (1) This section applies if the chief executive is—

- (a) the assessment manager or a referral agency for a development application; or
- (b) the responsible entity or a referral agency for a change application.

- (2) Section 258(3), ‘assessment manager or referral agency’—

omit, insert—

assessment manager, responsible entity or referral agency

- (3) Section 258(4), ‘section 282 and chapter 6, part 5, division 2’—

omit, insert—

sections 55, 81 and 82

570 Amendment of s 258A (Impact of change of management of local government road on railways)

- Section 258A(5)—

omit, insert—

- (5) This section does not apply if the chief executive or planning chief executive considered the proposed change to the management of the local government road as part of considering—

- (a) an application for a development approval; or

[s 571]

(b) a change application.

571 Amendment of s 258B (Guidelines for ss 258–258A)

Section 258B(1)(a)—

omit, insert—

(a) planning for, or carrying out, development under the Planning Act; or

572 Amendment of s 283I (Definitions for pt 3C)

(1) Section 283I, definitions *Brisbane port railway land, community infrastructure designation, planning chief executive, priority infrastructure plan* and *valuable features—omit.*

(2) Section 283I—
insert—

code assessment see the Planning Act, section 45(3).

designation means a designation of premises under the Planning Act.

impact assessment see the Planning Act, section 45(5).

LGIP, of a local government, means the local government's LGIP under the Planning Act.

(3) Section 283I, definition *minor amendment (LUP)*, paragraph (a)(viii), from 'a State planning regulatory provision'—
omit, insert—

the Planning Act or a State planning instrument under that Act; or

(4) Section 283I, definition *minor amendment (LUP)*, paragraph (c)(ii), 'community infrastructure'—
omit.

-
- (5) Section 283I, definition *planned transport infrastructure*, paragraph (b), ‘community infrastructure’—
omit.
- (6) Section 283I, definition *premises*, ‘schedule 3’—
omit, insert—
schedule 2
- (7) Section 283I, definition *priority infrastructure interface plan*, ‘priority infrastructure plan’—
omit, insert—
LGIP
- (8) Section 283I, definition *State interest*, ‘schedule 3’—
omit, insert—
schedule 2
- (9) Section 283I, definition *table of assessment*, paragraph (a), from ‘exempt’ to ‘assessment’—
omit, insert—
accepted development
- (10) Section 283I, definition *transport reasons*, paragraph (e), from ‘any matter’ to ‘Act—’—
omit, insert—
a matter within the powers of the chief executive, or the chief executive of the department in which any of the following Acts is administered, as a referral agency under the Planning Act—

573 Amendment of s 283M (Application of Planning Act)

Section 283M(4) and note—

omit.

[s 574]

574 Amendment of s 283S (Content of plan—mandatory requirements)

- (1) Section 283S(4)(a), from ‘exempt’ to ‘assessment’—
omit, insert—
accepted development
- (2) Section 283S(5)—
insert—
 - (d) state the assessment benchmarks for the Planning Act that assessable development under the Brisbane port LUP must be assessed against.

575 Amendment of s 283T (Content of plan—matters about development)

- (1) Section 283T(3), ‘exempt development or self-assessable’—
omit, insert—
accepted
- (2) Section 283T(4), from ‘exempt development’ to ‘compliance assessment,’—
omit, insert—
accepted development
- (3) Section 283T(5)(a), from ‘exempt’ to ‘compliance assessment’—
omit, insert—
accepted development
- (4) Section 283T(5)(b)—
omit, insert—
 - (b) development is assessable development for the Planning Act if a regulation made under section 43(4)(b) of that Act prohibits local

categorising instruments, as defined in that Act, from doing so; or

(5) Section 283T(5)(c)(ii)—

omit, insert—

(ii) development categorised as accepted development under a regulation made under the Planning Act; or

(6) Section 283T(6) and (7)—

omit.

576 Amendment of s 283X (When plan must include priority infrastructure interface plan)

(1) Section 283X(a) and (b), after ‘priority infrastructure plan’—

insert—

under the repealed *Sustainable Planning Act 2009*

(2) After section 283X(b)—

insert—

Note—

On and from 1 July 2014, a local government’s priority infrastructure plan under the repealed *Sustainable Planning Act 2009* became the local government’s LGIP under that Act. See section 982 of that repealed Act.

577 Amendment of s 283ZI (Recording matters about Brisbane port LUP)

Section 283ZI(2)—

omit, insert—

(2) A record made under subsection (1) is not an amendment of the planning scheme.

[s 578]

578 Amendment of s 283ZL (Effect of land ceasing to be Brisbane core port land)

Section 283ZL(7)—

omit, insert—

- (7) To the extent subsection (5) is inconsistent with any regulated requirements prescribed by regulation under the Planning Act, section 16(2), subsection (5) prevails.

579 Amendment of s 283ZM (Reconfiguring a lot)

Section 283ZM(2), ‘exempt’—

omit, insert—

accepted

580 Replacement of ss 283ZN and 283ZO

Sections 283ZN and 283ZO—

omit, insert—

283ZN Port prohibited development

- (1) A development application or change application can not be made in relation to development on Brisbane core port land that is port prohibited development.
- (2) If a development application or change application relates to port prohibited development—
 - (a) the application is taken not to have been made; and
 - (b) the development assessment process under the Planning Act does not apply to the application.

283ZO Code assessment under Brisbane port LUP

- (1) This section applies to any part of a development application or change application requiring code assessment under the Brisbane port LUP for port related development.
- (2) The part must be approved under the Planning Act if the port related development—
 - (a) is consistent with the Brisbane port LUP; and
 - (b) complies with the assessment benchmarks under the Planning Act for the development.
- (3) Subsection (2) is subject to any requirements for the part required by a referral agency.

581 Replacement of ch 8, pt 3C, div 5, sdiv 2, hdg (Provisions about assessment manager and referral agencies)

Chapter 8, part 3C, division 5, subdivision 2, heading—

omit, insert—

Subdivision 2 Provisions about local heritage places and infrastructure contributions

582 Omission of ss 283ZP–283ZU

Sections 283ZP to 283ZU—

omit.

583 Amendment of s 283ZV (Assessment and referrals for heritage places)

- (1) Section 283ZV, heading—

omit, insert—

[s 584]

283ZV Development on heritage places

- (2) Section 283ZV(1), from ‘prescribed’—
omit, insert—
categorised as assessable development by a regulation made under that Act.
- (3) Section 283ZV(3), ‘any referral agency jurisdiction’—
omit, insert—
a function or power of a referral agency

584 Omission of ss 283ZW–283ZY

Sections 283ZW to 283ZY—
omit.

585 Amendment of s 283ZZA (Particular provisions of Planning Act do not apply in relation to Brisbane core port land)

- (1) Section 283ZZA(1), ‘section 714’—
omit, insert—
section 262
- (2) Section 283ZZA(1), note—
omit.
- (3) Section 283ZZA(2), ‘chapter 9, part 3’—
omit, insert—
chapter 2, part 4, division 2

586 Replacement of ss 283ZZB and 283ZZC

Sections 283ZZB and 283ZZC—
omit, insert—

283ZZB Modified application of Planning Act, s 264

- (1) A person may apply to the planning chief executive for a planning and development certificate, under the Planning Act, section 264, for premises on Brisbane core port land.
- (2) The application must be accompanied by the fee prescribed by regulation.
- (3) For subsection (1)—
 - (a) the Planning Act, section 264(3) applies as if a reference in the subsection to a local government were a reference to the planning chief executive; and
 - (b) a regulation made under the Planning Act, section 264(4) applies—
 - (i) as if a reference in the regulation to a local government were a reference to the planning chief executive; and
 - (ii) as if a reference in the regulation to any planning scheme were a reference to the Brisbane port LUP; and
 - (iii) as if a reference in the regulation to any LGIP were a reference to any contributions schedule under the Brisbane port LUP; and
 - (iv) as if the regulation provides that a planning and development certificate also be accompanied by—
 - (A) any statement of proposal for Brisbane core port land notified under section 283ZB(2), if a draft plan in relation to the statement of proposal has not yet been approved under section 283ZE; or
 - (B) any draft plan for Brisbane core port land notified under section

[s 587]

283ZB(2) but not yet approved
under section 283ZE; and

(v) with other necessary changes.

- (4) This section does not limit the Planning Act, section 264.

283ZZC Restriction on designation of premises for development of infrastructure

- (1) Despite the Planning Act, chapter 2, part 5, only the planning Minister may, under that part, make a designation of premises that is, or includes, Brisbane core port land.
- (2) Development carried out on premises that are the subject of a designation is accepted development under the Planning Act to the extent the development—
- (a) is carried out under the designation; and
- (b) would, other than for this subsection, be assessable development for that Act under the Brisbane port LUP.
- (3) Subsection (2) does not limit the Planning Act, section 44(6)(b).

587 Omission of s 283ZZD (Restriction on application of master plan)

Section 283ZZD—

omit.

588 Amendment of ch 8, pt 3C, div 5, sdiv 7, hdg (Dealing with development applications affected by change)

Chapter 8, part 3C, division 5, subdivision 7, heading, ‘development’—

omit, insert—

particular

589 Amendment of s 283ZZJ (Particular development applications—Brisbane core port land)

- (1) Section 283ZZJ, heading, ‘development’—
omit.
- (2) Section 283ZZJ(1), ‘for—’—
omit, insert—
 , or change application, relating to—
- (3) Section 283ZZJ(1)(a)(ii)—
omit, insert—
 - (ii) the Port of Brisbane Corporation is—
 - (A) if the application is a development application—the assessment manager for the application; or
 - (B) if the application is a change application—the responsible entity for the application; or
- (4) Section 283ZZJ(2)—
omit, insert—
 - (2) On the relevant day for the application—
 - (a) the planning chief executive is taken to be, for the Planning Act—
 - (i) if the application is a development application—the assessment manager for the application; or
 - (ii) if the application is a change application—the responsible entity for the application; and
 - (b) the development assessment process stops for the application.

[s 590]

- (5) Section 283ZZJ(3), ‘a development’—
omit, insert—
an
- (6) Section 283ZZJ(4)—
omit, insert—
(4) As soon as practicable after the relevant day for an application to which subsection (1)(b) applies, the assessment manager or responsible entity for the application must give the application to the planning chief executive.
- (7) Section 283ZZJ(5) and (6), ‘or assessment manager’—
omit, insert—
, assessment manager or responsible entity
- (8) Section 283ZZJ(8), ‘IDAS process’—
omit, insert—
development assessment process
- (9) Section 283ZZJ(11), definition *relevant day*, ‘a development’—
omit, insert—
an
- (10) Section 283ZZJ(11)—
insert—
change application does not include a change application for a minor change to a development approval, as defined in the Planning Act.

590 Amendment of s 283ZZK (Particular development applications—balance port land or former Brisbane core port land)

- (1) Section 283ZZK, heading, ‘development’—

omit.

- (2) Section 283ZZK(1), ‘for—’—

omit, insert—

, or change application, relating to—

- (3) Section 283ZZK(1)(a)(ii)—

omit, insert—

(ii) the Port of Brisbane Corporation is—

(A) if the application is a development application—the assessment manager for the application; or

(B) if the application is a change application—the responsible entity for the application; or

- (4) Section 283ZZK(2)—

omit, insert—

(2) On the relevant day for the land—

(a) if the land is in the Northshore Hamilton urban development area under the *Economic Development Act 2012*—MEDQ under that Act is taken to be, for the Planning Act—

(i) if the application is a development application—the assessment manager for the application; or

(ii) if the application is a change application—the responsible entity for the application; and

(b) if the land is not in the area mentioned in paragraph (a)—the local government for the area that adjoins the land, or in which the land is situated, is taken to be, for the Planning Act—

[s 590]

- (i) if the application is a development application—the assessment manager for the application; or
 - (ii) if the application is a change application—the responsible entity for the application; and
 - (c) the development assessment process stops for the application.
- (5) Section 283ZZK(3) to (6), (7)(b) and (9), ‘assessment manager’—
omit, insert—
decision-maker
- (6) Section 283ZZK(7), ‘IDAS process’—
omit, insert—
development assessment process
- (7) Section 283ZZK(10), definitions *former assessment manager* and *new assessment manager*—
omit.
- (8) Section 283ZZK(10)—
insert—

change application does not include a change application for a minor change to a development approval, as defined in the Planning Act.

former decision-maker means—

- (a) for a development application or change application to which subsection (1)(a) applies—the Port of Brisbane Corporation; or
- (b) for a development application or change application to which subsection (1)(b) applies—the planning chief executive.

new decision-maker means—

- (a) for a development application—the entity that, under subsection (2)(a)(i) or (b)(i), is taken to be the assessment manager for the application; or
- (b) for a change application—the entity that, under subsection (2)(a)(ii) or (b)(ii), is taken to be the responsible entity for the application.

591 Amendment of s 284 (Definitions for div 1)

Section 284, definition *valuable features*—
omit.

592 Amendment of s 287 (Strategic port land not subject to local planning instrument)

Section 287(2), ‘chapter 3’—
omit, insert—

chapter 2, part 3

593 Amendment of s 287A (Impact of particular development and port operations)

(1) Section 287A(1)—

omit, insert—

(1) This section applies if the Minister is—

- (a) a referral agency for a development application; or
- (b) the responsible entity or a referral agency for a change application.

(2) Section 287A(3)—

omit, insert—

[s 594]

(3) For performing the Minister's functions as the responsible entity or a referral agency, the Minister must consider the extent to which the proposed development satisfies the purpose mentioned in subsection (2).

(3) Section 287A(4), 'section 282 and chapter 6, part 5, division 2'—

omit, insert—

sections 55, 81 and 82

594 Amendment of s 287B (Guidelines for s 287A)

Section 287B(1), '*Sustainable Planning Act 2009*'—

omit, insert—

Planning Act

595 Amendment of s 476 (Amounts payable are debts owing to the State)

Section 476, after 'this Act'—

insert—

, the repealed *Sustainable Planning Act 2009*

596 Amendment of s 477A (Power to deal with particular land)

(1) Section 477A(1)(b)—

omit, insert—

(b) to provide infrastructure of a type prescribed by regulation under the Planning Act, section 35(1).

(2) Section 477A(2), definition *community infrastructure*—

omit.

597 Amendment of s 477AA (Chief executive taken to be owner of particular transport land for particular circumstances under Planning Act)

(1) Section 477AA(1)—

omit, insert—

(1) This section applies if—

- (a) the planning Minister or a local government proposes to make, amend, extend the duration of or repeal a designation of premises under the Planning Act, chapter 2, part 5 and the premises are, or include, transport land; or
- (b) an application made under the Planning Act—
 - (i) relates to transport land; and
 - (ii) must, under that Act, be accompanied by evidence of the consent, of the owner of the premises to which the application relates, to the making of the application; or
- (c) an application made under the Planning Act relates to transport land, or premises that adjoin transport land, and the applicant for the application must, under that Act, give notice of the application to—
 - (i) the owner of the premises to which the application relates; or
 - (ii) the owner of premises adjoining the premises to which the application relates.

(2) Section 477AA(2), 'land that is'—

omit.

[s 597A]

597A Amendment of s 485B (Appeals against decisions)

(1) Section 485B—

insert—

(3A) Subsection (5) applies if—

- (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and
- (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(3B) The court may order—

- (a) the appeals to be heard together or 1 immediately after the other; or
- (b) 1 appeal to be stayed until the other is decided.

(3C) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(2) Section 485B(3A) to (4)—

renumber as section 485B(4) to (7).

598 Amendment of s 513 (Continuing application of previous provisions to non-IDAS applications)

(1) Section 513, heading, ‘non-IDAS’—

omit, insert—

particular

(2) Section 513(1)(b), ‘or the *Sustainable Planning Act 2009*’—

omit, insert—

, the repealed *Sustainable Planning Act 2009* or the *Planning Act 2016*

599 Insertion of new ch 21, pt 5

Chapter 21—

insert—

**Part 5 Transitional provisions
for Planning
(Consequential) and
Other Legislation
Amendment Act 2016**

583 Definitions for part

In this part—

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

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

584 Existing particular development applications

- (1) Subsection (2) applies to an existing development application mentioned in former section 49A.
- (2) Former section 49A continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) Subsection (4) applies to an existing development application mentioned in former section 258(1).
- (4) Former section 258(1) continues to apply in relation to the application as if the amending Act had not been enacted.

[s 600]

- (5) Subsection (6) applies to an existing development application mentioned in former chapter 8, part 3C.
- (6) Former chapter 8, part 3C continues to apply in relation to the application as if the amending Act had not been enacted.
- (7) Subsection (8) applies to an existing development application mentioned in former section 287A(1).
- (8) Former section 287A continues to apply in relation to the application as if the amending Act had not been enacted.
- (9) In this section—
existing development application means an application made under the repealed *Sustainable Planning Act 2009*, to which the Planning Act, section 287 applies.

585 References to Brisbane port railway land

- (1) This section applies to a reference in a document made before the commencement to Brisbane port railway land if the document defines, or in effect defines, the term ‘Brisbane port railway land’ as having the meaning given in this Act.
- (2) The reference may, if the context permits, be taken as a reference to Brisbane port railway land as defined in former section 283I.

600 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *advice agency*, *Brisbane port railway land*, *community infrastructure*, *community infrastructure designation*, *concurrence agency*, *development*, *IDAS*, *IDAS process*, *Planning Act*, *planning Minister*, *priority infrastructure plan*, *referral agency* and *valuable features*—

omit.

(2) Schedule 6—

insert—

change application means a change application under the Planning Act.

code assessment, for chapter 8, part 3C, see section 283I.

designation, for chapter 8, part 3C, see section 283I.

development—

(a) for chapter 6, part 5, division 2, subdivision 2 and chapter 8, part 3C, see the Planning Act, schedule 2; or

(b) for chapter 11, see section 401.

development assessment process see the Planning Act, schedule 2.

impact assessment, for chapter 8, part 3C, see section 283I.

LGIP, of a local government, for chapter 8, part 3C, see section 283I.

Planning Act means the *Planning Act 2016*.

planning application see section 62A(1).

planning Minister, for chapter 8, part 3C, see section 283I.

referral agency see the Planning Act, section 54(2).

referral agency's response see the Planning Act, section 56(4).

responsible entity, for a change application, see the Planning Act, section 78(3).

[s 600]

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

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

(3) Schedule 6, definition *material change of use*, ‘section 10’—
omit, insert—

schedule 2

(4) Schedule 6, definition *operational work*, ‘section 10(1)’—
omit, insert—

schedule 2

(5) Schedule 6, definition *reconfiguring a lot*, ‘section 10’—

omit, insert—

schedule 2

Part 64 Amendment of Transport Planning and Coordination Act 1994

601 Act amended

This part amends the *Transport Planning and Coordination Act 1994*.

602 Amendment of s 8B (Impact of particular development on public passenger transport or active transport)

(1) Section 8B(1)—

omit, insert—

(1) This section applies if the chief executive is—

(a) a referral agency under the Planning Act for a development application under that Act; or

(b) the responsible entity or a referral agency under the Planning Act for a change application under that Act.

(2) Section 8B(2), ‘assessment manager’—

omit, insert—

responsible entity

(3) Section 8B(3), from ‘*Sustainable*’—

omit, insert—

Planning Act, sections 55, 81 and 82.

[s 603]

603 Amendment of s 8C (Impact of road works on local government road)

(1) Section 8C(2), ‘for IDAS’—

omit, insert—

, prescribed by regulation for this section, about road works on local government roads,

(2) Section 8C(3) and (4), ‘for IDAS’—

omit.

604 Amendment of s 8D (Impact of change of management of local government road on public passenger transport)

(1) Section 8D(8)(a)—

omit, insert—

(a) the chief executive or planning chief executive has considered the change of management of the local government road as part of considering an application for a development approval, or a change application, under the Planning Act; or

(2) Section 8D—

insert—

(9) In this section—

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

605 Amendment of s 8E (Guidelines for pt 2A)

Section 8E(3)(a), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

606 Amendment of s 38 (Regulation-making power)

Section 38(2)(a), ‘for IDAS’—

omit.

607 Amendment of sch 1 (Dictionary)

(1) Schedule 1, definition *IDAS*—

omit.

(2) Schedule 1—

insert—

Planning Act means the *Planning Act 2016*.

**Part 65 Amendment of Transport
(South Bank Corporation Area
Land) Act 1999**

608 Act amended

This part amends the *Transport (South Bank Corporation Area Land) Act 1999*.

609 Amendment of s 12 (State may sign plans and other documents)

Section 12(3) and (4)—

omit.

[s 610]

Part 66 **Amendment of Vegetation Management Act 1999**

610 Act amended

This part amends the *Vegetation Management Act 1999*.

611 Amendment of s 3 (Purpose of Act)

(1) Section 3(2)(a)—

omit, insert—

(a) the following matters—

(i) assessment benchmarks for the Planning Act for the assessment of assessable development that is the clearing of vegetation, other than an assessment carried out by the planning chief executive;

(ii) for the Planning Act, the matters a referral agency other than the planning chief executive—

(A) must or may assess a development application against; or

(B) must or may assess a development application having regard to; and

(2) Section 3(2)(e)—

omit.

(3) Section 3(2)(f)—

renumber as section 3(2)(e).

612 Amendment of s 7 (Application of Act)

Section 7(6) and (7)—

omit.

613 Omission of pt 2, divs 2A and 3

Part 2, divisions 2A and 3—

omit.

614 Amendment of s 16 (Preparing declaration)

Section 16(3)—

omit, insert—

- (3) The proposed declaration must include—
 - (a) proposed assessment benchmarks for the assessment of development that is the clearing of vegetation in the stated area; and
 - (b) proposed matters that a referral agency must or may assess a development application against, or having regard to.

615 Amendment of s 17 (Making declaration)

Section 17(2)—

omit, insert—

- (2) The declaration must not include the matters proposed under section 16(3)(a) and (b).

616 Omission of ss 19A–19C

Sections 19A to 19C—

omit.

617 Amendment of s 19F (Making declaration)

Section 19F(3)—

omit, insert—

- (3) Without limiting subsection (1), the chief executive may decide not to make a declaration

[s 618]

for the stated area if the chief executive considers the making of the declaration is not in the interests of the State, having regard to the public interest.

618 Omission of s 19H (Code for clearing of vegetation)

Section 19H—

omit.

619 Amendment of pt 2, div 4A, hdg (Code for clearing vegetation for special indigenous purpose)

Part 2, division 4A, heading, ‘Code for clearing’—

omit, insert—

Clearing

620 Replacement of s 19N (Code for clearing vegetation for special indigenous purpose)

Section 19N—

omit, insert—

19N Draft matters for assessing development application for clearing of vegetation for special indigenous purpose

- (1) The Minister may prepare a document stating draft assessment matters for development that—
 - (a) involves, or relates to, the clearing of vegetation; and
 - (b) the Minister is satisfied is for a special indigenous purpose under the CYPH Act.
- (2) In preparing the document, the Minister—
 - (a) must consult with—
 - (i) the relevant landholders; and

-
- (ii) the Cape York Peninsula Regional Advisory Committee; and
- (b) may, for example, consider any matter stated in the CYPH Act, section 18 or 19 the Minister considers is relevant to the clearing of vegetation for development.
- (3) In preparing assessment matters under the Planning Act, the document may be considered, but otherwise does not affect the preparation or making of assessment matters under that Act.
- (4) In this section—
- assessment matters* means—
- (a) assessment benchmarks for assessing development under the Planning Act; and
- (b) the matters a referral agency must or may assess a development application against, or having regard to.

Cape York Peninsula Regional Advisory Committee means the Cape York Peninsula Regional Advisory Committee established under the CYPH Act.

Cape York Peninsula Region means the Cape York Peninsula Region under the CYPH Act.

DOGIT land means DOGIT land under the *Aboriginal Land Act 1991*.

relevant landholders means—

- (a) the land trusts for Aboriginal land, under the *Aboriginal Land Act 1991*, that is in the Cape York Peninsula Region; and
- (b) the Aurukun Shire Council; and
- (c) the trustees, under the *Land Act 1994*, of DOGIT land in the Cape York Peninsula Region.

[s 621]

621 Replacement of pt 2, div 4B, hdg (Self-assessable codes)

Part 2, division 4B, heading—

omit, insert—

Division 4B Accepted development

622 Amendment of s 19O (Self-assessable vegetation clearing code)

(1) Section 19O, heading, ‘Self-assessable’—

omit, insert—

Accepted development

(2) Section 19O(1) and (2), ‘a *self-assessable*’—

omit, insert—

an *accepted development*

(3) Section 19O(3) and (4), ‘A self-assessable’—

omit, insert—

An accepted development

623 Amendment of s 19P (When self-assessable vegetation clearing code takes effect)

(1) Section 19P, heading, ‘self-assessable’—

omit, insert—

accepted development

(2) Section 19P, ‘A self-assessable’—

omit, insert—

An accepted development

624 Amendment of s 19Q (Code compliant clearing and native forest practices self-assessable)

(1) Section 19Q, heading—

omit, insert—

19Q When code compliant clearing and conduct of native forest practices are accepted development, assessable development or prohibited development for Planning Act

- (2) Section 19Q(1), ‘a self-assessable’—

omit, insert—

an accepted development

- (3) Section 19Q(2) and note—

omit, insert—

- (2) For the Planning Act, the activity is—

(a) accepted development to the extent the activity complies with the code; or

(b) assessable development to the extent—

(i) the activity does not comply with the code; and

(ii) any vegetation clearing application for the activity would be for a relevant purpose under section 22A; or

(c) prohibited development under that Act to the extent—

(i) the activity does not comply with the code; and

(ii) any vegetation clearing application for the activity would not be for a relevant purpose under section 22A.

Note—

For an offence relating to carrying out assessable development without a development permit under the Planning Act and an exemption from the offence, see chapter 5, part 2 of that Act.

[s 625]

625 Amendment of s 19R (Register of self-assessable notices given under code)

(1) Section 19R, heading, ‘self-assessable’—

omit, insert—

accepted development

(2) Section 19R(1), ‘a self-assessable’—

omit, insert—

an accepted development

626 Omission of pt 2, div 5 (Declarations about codes)

Part 2, division 5—

omit.

627 Amendment of s 20AH (Deciding to show particular areas as category B areas)

Section 20AH(c)(ii)—

omit, insert—

(ii) has been subject to clearing of vegetation, or conducting a native forest practice, under an accepted development vegetation clearing code on a category B area; or

628 Amendment of s 20AI (Deciding to show particular areas as category C areas)

Section 20AI(a), ‘a self-assessable’—

omit, insert—

an accepted development

629 Amendment of s 20CA (Process before making PMAV)

(1) Section 20CA(2)(a), ‘was exempt development’—

omit, insert—

did not require a development permit under
the Planning Act

(2) Section 20CA(2)(d), ‘a self-assessable’—

omit, insert—

an accepted development

630 Amendment of s 20D (When PMAV may be replaced)

Section 20D(3A)(c), ‘a self-assessable’—

omit, insert—

an accepted development

631 Amendment of s 20P (Criteria for approving draft plan or accrediting planning document)

Section 20P(e)(ii)—

omit, insert—

(ii) assessment benchmarks (the *clearing assessment benchmark*) that the planning chief executive must, under the Planning Act, assess development that is the clearing of vegetation against;

(iii) a matter (a *referral matter*) that a referral agency must or may assess a development application for the clearing of vegetation against, or having regard to.

[s 632]

632 Amendment of s 20R (Imposing additional condition on approval of draft plan)

Section 20R(2)(b)(ii)—

omit, insert—

- (ii) the clearing assessment benchmarks; or
- (iii) a referral matter.

633 Amendment of s 20UA (Chief executive may make area management plans)

Section 20UA(2)(d)(ii)—

omit, insert—

- (ii) the clearing assessment benchmarks;
- (iii) a referral matter.

634 Amendment of s 20ZB (Amendment by chief executive)

Section 20ZB(1)(b)(i) and (ii) and examples—

omit, insert—

- (i) has become inconsistent with the State policy; or
- (ii) has become inconsistent with the clearing assessment benchmarks or referral matter; or
- (iii) will become inconsistent with the State policy, the clearing assessment benchmarks or a referral matter if the plan is not amended; or

Examples—

- 1 An area management plan becomes inconsistent with the clearing assessment benchmarks because of a change to the clearing assessment benchmarks.
- 2 An existing planning document accredited as an area management plan becomes inconsistent with the

clearing assessment benchmarks because of an amendment of the document.

635 Replacement of pt 2, div 6, sdiv 1, hdg (Modifying effect of Planning Act)

Part 2, division 6, subdivision 1, heading—

omit, insert—

Subdivision 1 Relevant purposes

636 Omission of ss 21 and 22

Sections 21 and 22—

omit.

637 Amendment of s 22A (When development is for a relevant purpose)

(1) Section 22A(1), ‘for the Planning Act, schedule 1, item 3 or 4’—

omit.

(2) Section 22A(2C)—

omit.

638 Omission of ss 22B–22D

Sections 22B to 22D—

omit.

643 Omission of pt 2, div 6, sdiv 2 (Referral agency assessment and responses)

Part 2, division 6, subdivision 2—

omit.

[s 644]

644 Omission of pt 2, div 7 (Broadscale applications and ballots)

Part 2, division 7—

omit.

645 Omission of pt 2, div 8 (Miscellaneous)

Part 2, division 8—

omit.

646 Amendment of s 61 (Ability to prosecute under other Acts)

Section 61(a)—

omit, insert—

- (a) a development offence under the Planning Act or the repealed *Sustainable Planning Act 2009*;

647 Amendment of s 70AB (Copies of documents to be available for inspection and purchase)

(1) Section 70AB(1)(b), (c), (d), (f) and (g)(iii)—

omit.

(2) Section 70AB(1)—

insert—

- (b) an accepted development vegetation clearing code;

(3) Section 70AB(1)(h), from ‘that’ to ‘section 20V(2)(c)’—

omit.

(4) Section 70AB(1)(e) to (h)—

renumber as section 70AB(1)(c) to (e).

(5) Section 70AB(2)(b), ‘subsection (1)(g)’—

[s 650]

(5) Section 70B(7)—
omit.

650 Amendment of s 72 (Regulation-making power)

Section 72(2)—

omit, insert—

- (2) A regulation may prescribe the fees that are payable under this Act.

651 Amendment of s 74 (Existing development control plans and special facilities zones)

Section 74(2)(b)(ii) and (iii)—

omit, insert—

- (ii) an acknowledgement notice mentioned in the repealed *Integrated Planning Act 1997*, section 3.2.5(1); or
- (iii) a request made under the repealed *Sustainable Planning Act 2009*, section 95(1), or the Planning Act, section 29(4)(b), that has been agreed to, or is taken to have been agreed to, by the local government; or
- (iv) a development permit given for a development application (superseded planning scheme) under the repealed *Sustainable Planning Act 2009*; or
- (v) a development permit given for a superseded planning scheme request under the Planning Act.

652 Omission of ss 75–78

Sections 75 to 78—

omit.

653 Omission of s 80 (Modifying effect of repealed Integrated Planning Act 1997 for owner's consent)

Section 80—

omit.

654 Amendment of s 81 (Effect on existing riverine protection permits)

Section 81(2), from 'that is'—

omit, insert—

that is—

- (a) the clearing of vegetation; and
- (b) categorised as assessable development under a regulation made under the Planning Act.

655 Omission of s 83 (Validation of regional vegetation management codes)

Section 83—

omit.

656 Omission of pt 6, div 6 (Transitional provision for Sustainable Planning Act 2009)

Part 6, division 6—

omit.

657 Omission of ss 90–95

Sections 90 to 95—

omit.

[s 658]

658 Amendment of s 100 (Clearing of regulated regrowth vegetation in retrospective period not an offence)

Section 100(1), 'Planning Act'—

omit, insert—

repealed *Integrated Planning Act 1997*

659 Omission of ss 105–106

Sections 105 and 106—

omit.

660 Omission of s 108 (Appeals)

Section 108—

omit.

661 Insertion of new pt 6, div 13

Part 6—

insert—

**Division 13 Transitional provisions for
Planning (Consequential)
and Other Legislation
Amendment Act 2016**

**133 Existing self-assessable vegetation clearing
code continues in force**

A self-assessable vegetation clearing code in force immediately before the commencement—

- (a) continues in force; and
- (b) is taken to be an accepted development vegetation clearing code.

134 Existing vegetation clearing application or existing concurrence agency application

- (1) This section applies to an existing vegetation clearing application or an existing concurrence agency application.
- (2) This Act, as in force immediately before the commencement, continues to apply in relation to the application as if the *Planning (Consequential) and Other Legislation Amendment Act 2016* had not been enacted.
- (3) In this section—

existing concurrence agency application means a concurrence agency application as defined in the schedule immediately before the commencement, to which the Planning Act, section 287 applies.

existing vegetation clearing application means a vegetation clearing application as defined in the schedule immediately before the commencement, to which the Planning Act, section 287 applies.

135 Declarations prepared under former s 16 or made under former s 17

- (1) A declaration made under former section 17 and in force immediately before the commencement—
 - (a) continues in force; and
 - (b) is taken to be a declaration made under section 17.
- (2) Subsection (3) applies if—
 - (a) before the commencement, the Minister prepared, or started to prepare, a declaration under former section 16; but

[s 662]

- (b) the declaration had not been made before the commencement.
- (3) Former sections 16 and 17(1) and (3) continue to apply in relation to the preparation and making of the declaration.
- (4) However, the declaration must not include a code for the clearing of vegetation in the area to which the declaration relates.
- (5) A declaration made under subsection (3) is taken to be a declaration made under section 17.
- (6) In this section—
former, in relation to a provision, means the provision as in force immediately before the provision was amended or repealed under the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

662 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *applicable code, ballot application period, broadscale application, clearing allocation, concurrence agency, concurrence agency application, concurrence agency policy, currency period, declared area code, development plan, exempt development, IDAS, information request, material change of use, Planning Act, property vegetation management plan, protected wildlife, reconfiguring a lot, referral agency's response, regional vegetation management code, self-assessable vegetation clearing code, special clearing code* and *vegetation clearing application*—
omit.
- (2) Schedule—
insert—
accepted development see the Planning Act, section 44(4).

accepted development vegetation clearing code see section 19O(1) and (2).

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

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

change application means a change application under the Planning Act.

clearing assessment benchmarks see section 20P(e)(ii).

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

Planning Act means the *Planning Act 2016*.

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

protected wildlife means native wildlife prescribed under the Nature Conservation Act as endangered wildlife or vulnerable wildlife.

referral agency, for a development application, see the Planning Act, section 54(2).

referral matter see section 20P(e)(iii).

vegetation clearing application means—

- (a) a development application for development that involves the clearing of vegetation and is categorised as assessable development under a regulation made under the Planning Act; or
- (b) a change application, other than a minor change application, to change a development approval, as defined in that Act, to approve development mentioned in

[s 662]

paragraph (a), if the development approval does not already approve that development.

- (3) Schedule, definition *exchange area*, from ‘a self-assessable’—

omit, insert—

an accepted development vegetation clearing code in exchange for clearing vegetation under the code.

- (4) Schedule, definition *forest practice*, paragraph 1(b)(i), ‘self-assessable’—

omit, insert—

accepted development

- (5) Schedule, definition *high risk species*, paragraph (b)—

omit, insert—

(b) another plant prescribed by a regulation made under the Planning Act, section 55(2) to be a high risk species.

- (6) Schedule, definition *unlawfully cleared*, paragraph (a), after ‘provision,’—

insert—

or the repealed *Sustainable Planning Act 2009*, section 578(1), 580(1), 581(1), 582 or 594(1)

- (7) Schedule, definition *vegetation clearing provision*, ‘section 578(1), 580(1), 581, 582 or 594(1)’—

omit, insert—

section 161, 162(1), 163, 164 or 167(5)

Part 67 Amendment of Water Act 2000

663 Act amended

This part amends the *Water Act 2000*.

664 Amendment of ch 2, pt 2, div 1A, hdg (Authorised taking of, or interference with, water without water entitlement)

Chapter 2, part 2, division 1A, heading, note—

omit, insert—

Note—

See also the Planning Act for when a development permit is required for operational work that allows taking or interfering with water.

665 Amendment of s 46 (Content of draft water resource plans)

Section 46(2)(d) and (e), ‘assessable or self-assessable development’—

omit, insert—

assessable development or accepted
development

666 Amendment of s 47 (Matters the Minister must consider when preparing draft water resource plan)

Section 47(ba), ‘a regional plan applies’—

omit, insert—

a regional plan under the Planning Act
applies

667 Amendment of s 363 (Water bores to which ch 3 applies)

Section 363(b), after ‘Planning Act’—

[s 668]

insert—

, the repealed *Sustainable Planning Act 2009*

668 Amendment of s 740 (Functions and powers of authorised officers)

(1) Section 740(1)(b)(ii)(A)—

omit.

(2) Section 740(1)(b)(ii)(B) and (C)—

renumber as section 740(1)(b)(ii)(A) and (B).

669 Amendment of s 746 (Power to enter land to monitor compliance)

(1) Section 746(4), from ‘the Planning Act’—

omit, insert—

a development approval is being complied with.

(2) Section 746—

insert—

(5) Subsection (4) applies only to the extent the development approval relates to a matter mentioned in section 740(1)(b)(ii).

670 Amendment of s 814 (Destroying vegetation, excavating or placing fill without permit)

Section 814(2)(d), ‘self-assessable’—

omit, insert—

accepted

671 Replacement of ch 8, pt 2, div 1, hdg (Development applications)

Chapter 8, part 2, division 1, heading—

insert—

Division 1 Particular development applications and change applications

672 Replacement of ch 8, pt 2, div 1, sdiv 1, hdg (Additional provisions for making development applications)

Chapter 8, part 2, division 1, subdivision 1, heading—

omit, insert—

Subdivision 1 Requirements for particular development applications and change applications

673 Replacement of s 966 (Applications for the removal of quarry material)

Section 966—

omit, insert—

966 Particular applications for removal of quarry material

- (1) This section applies if a person makes—
- (a) a development application for a development approval for the removal of quarry material from leased land; or
 - (b) a change application, other than a minor change application, to change a development approval that already approves the removal of quarry material from leased land; or

[s 674]

- (c) a change application, other than a minor change application, to change a development approval—
 - (i) to approve the removal of quarry material from leased land; and
 - (ii) that does not already approve the removal of the quarry material.
- (2) The application must be accompanied by—
 - (a) the written consent of the lessee of the leased land to arrangements about the route the person may use across the lessee's land for the removal of the quarry material; or
 - (b) if the lessee of the leased land and the person can not agree on arrangements—the arrangements decided by a Magistrates Court.
- (3) In this section—

leased land means land leased under the *Land Act 1994*.

674 Amendment of s 967 (Applications for levees)

- (1) Section 967(1)(a)—

omit, insert—

 - (a) to development that is the construction of a new levee or the modification of an existing levee; and
- (2) Section 967(2) and (3)—

omit, insert—

 - (2) A regulation may prescribe—
 - (a) assessment benchmarks for the Planning Act for the assessment of development, other than an assessment carried out by the chief executive of the department in which

that Act is administered (the *planning chief executive*); or

- (b) for the Planning Act, the matters a referral agency under that Act, other than the planning chief executive—
 - (i) must or may assess a development application against; or
 - (ii) must or may assess a development application having regard to.

675 Omission of ch 8, pt 2, div 1, sdiv 2 (Additional assessment criteria)

Chapter 8, part 2, division 1, subdivision 2—

omit.

676 Replacement of s 972B (When an applicant may appeal to Land Court)

Section 972B—

omit, insert—

972B When appeal may be made to Land Court

- (1) This section applies if—
 - (a) a person makes a development application or change application, other than a minor change application, relating to operational work for taking or interfering with water; and
 - (b) the operational work is for, or relates to, an activity authorised under the *Mineral Resources Act 1989*; and
 - (c) the person has applied under the *Mineral Resources Act 1989* for authorisation to carry out the activity.

[s 677]

- (2) Despite the Planning Act, chapter 6, the person may appeal against a decision on the application to the Land Court.

677 Omission of s 972C (Offence to take or interfere with water if development permit required)

Section 972C—

omit.

678 Amendment of s 972D (Additional rights for permits for operational work)

Section 972D(2) and (3), ‘self-assessable’—

omit, insert—

accepted

679 Omission of ss 972E and 972F

Sections 972E and 972F—

omit.

680 Amendment of s 972H (Modification or removal of works)

- (1) Section 972H(1)(b)(i), ‘application’—

omit, insert—

permit

- (2) Section 972H(1)(b)(ii), ‘self-assessable’—

omit, insert—

accepted

681 Amendment of s 972J (Modification or removal of levees)

- (1) Section 972J(1)(b)(i), ‘application’—

omit, insert—

permit

(2) Section 972J(1)(b)(ii), ‘self-assessable’—

omit, insert—

accepted

682 Replacement of s 972N (Effect on development permit)

Section 972N—

omit, insert—

972N Direction prevails over development permit

If the direction is inconsistent with a development permit, the direction prevails to the extent of the inconsistency.

683 Amendment of s 1014 (Regulation-making power)

(1) Section 1014(2)(i) and (j)—

omit, insert—

(i) state, for the Planning Act, the requirements that the following operational work must comply with to be categorised as accepted development under that Act—

(i) operational work that allows taking or interfering with water;

(ii) operational work that is the construction or modification of a levee; and

(3) Section 1014(2)(n)—

omit.

(4) Section 1014(2)(d) to (m)—

renumber as section 1014(2)(c) to (k).

[s 684]

684 Amendment of s 1046 (Declared subartesian areas)

Section 1046(2)(b), from ‘assessable’—

omit, insert—

assessable development or accepted
development under the Planning Act.

685 Amendment of s 1048A (Existing licences, permits and approvals)

Section 1048A(13), ‘*Sustainable Planning Act 2009*, section 341’—

omit, insert—

Planning Act

686 Insertion of new ch 9, pt 10

Chapter 9—

insert—

**Part 10 Transitional provision
for Planning
(Consequential) and
Other Legislation
Amendment Act 2016**

1283 Existing development applications

- (1) This section applies to an existing development application to which former chapter 8, part 2, division 1 applied.
- (2) Former chapter 8, part 2, division 1 continues to apply in relation to the application as if the *Planning (Consequential) and Other Legislation Amendment Act 2016* had not been enacted.
- (3) In this section—

existing development application means a development application made under the repealed *Sustainable Planning Act 2009*, to which the Planning Act, section 287 applies.

former chapter 8, part 2, division 1 means chapter 8, part 2, division 1 as in force immediately before the commencement.

687 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *advice agency*, *applicable code*, *assessable development*, *assessing authority*, *assessment manager*, *concurrence agency*, *development condition*, *Planning Act*, *prohibited development*, *regional plan* and *self-assessable development*—

omit.

- (2) Schedule 4—

insert—

accepted development means development categorised as accepted development under a regulation made under the Planning Act.

assessable development means development categorised as assessable development under a regulation made under the Planning Act.

change application means a change application under the Planning Act.

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

Planning Act means the *Planning Act 2016*.

- (3) Schedule 4, definition *development*, ‘section 7’—

omit, insert—

schedule 2

690 Amendment of s 559 (Definition for pt 2)

Section 559, definition *relevant operational work*, ‘, section 10(1)’—

omit.

691 Omission of s 560 (Codes for Planning Act)

Section 560—

omit.

692 Replacement of ss 561 and 562

Sections 561 and 562—

omit, insert—

561 Particular applications for relevant operational work

- (1) This section applies to—
 - (a) an application for a development approval for relevant operational work; or
 - (b) a change application, other than a minor change application, to change a development approval that already approves relevant operational work; or
 - (c) a change application, other than a minor change application, to change a development approval—
 - (i) to approve relevant operational work; and
 - (ii) that does not already approve relevant operational work.
- (2) The application must be supported by evidence that the chief executive has accepted a failure impact assessment of the dam or proposed dam to which the relevant operational work relates.

[s 693]

(3) In this section—

change application means a change application under the Planning Act.

minor change application means a change application for a minor change to a development approval, as defined in the Planning Act.

562 When appeal may be made to Land Court

(1) This section applies if—

(a) a person makes an application to which section 561 applies; and

(b) the assessable development to which the application relates is for, or relates to, an activity authorised under the *Mineral Resources Act 1989*; and

(c) the person has applied under the *Mineral Resources Act 1989* for authorisation to carry out the activity.

(2) Despite the Planning Act, chapter 6, the person may appeal against a decision about the application to the Land Court.

(3) In this section—

assessable development means development that is assessable development under the Planning Act.

693 Amendment of s 636 (Application of s 562)

Section 636(2), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act or the repealed *Sustainable Planning Act 2009*

694 Insertion of new ch 10, pt 10

Chapter 10—

insert—

**Part 10 Transitional provision
for Planning
(Consequential) and
Other Legislation
Amendment Act 2016**

673 Existing development applications

(1) This section applies to an existing development application to which former chapter 8, part 2 applied.

(2) Former chapter 8, part 2 continues to apply in relation to the application as if the *Planning (Consequential) and Other Legislation Amendment Act 2016* had not been enacted.

(3) In this section—

existing development application means a development application made under the repealed *Sustainable Planning Act 2009*, to which the Planning Act, section 287 applies.

former chapter 8, part 2 means chapter 8, part 2 as in force immediately before the commencement.

695 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions *assessment manager*, *concurrency agency*, *development application*, *Planning Act* and *referral agency*—

omit.

(2) Schedule 3—

insert—

[s 696]

Planning Act means the *Planning Act 2016*.

- (3) Schedule 3, definition *development*, ‘section 7’—
omit, insert—
 schedule 2
- (4) Schedule 3, definition *development condition*, paragraph 1—
omit, insert—
 1 *Development condition*, of a development approval, means a condition of the approval that relates to a referable dam and was imposed by, or at the direction of—
 (a) the chief executive; or
 (b) the chief executive of the department in which the Planning Act is administered.
- (5) Schedule 3, definition *Planning Act offence*, from ‘section 574(1)’ to ‘594’—
omit, insert—
 section 161, 162(1), 163, 164 or 167(5) or (7)
- (6) Schedule 3, definition *premises*, paragraph (a), ‘section 10(1)’—
omit, insert—
 schedule 2

Part 69 **Amendment of Wet Tropics World Heritage Protection and Management Act 1993**

696 Act amended

This part amends the *Wet Tropics World Heritage Protection and Management Act 1993*.

697 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definition *planning scheme*—

omit, insert—

planning scheme means a planning scheme under the *Planning Act 2016*.

- (2) Schedule 3, definition *reconfiguring a lot*, ‘*Sustainable Planning Act 2009*, section 10(1)’—

omit, insert—

Planning Act 2016, schedule 2

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