



# Urban Land Development Authority Act 2007

Reprinted as in force on 1 July 2010

Reprint No. 2

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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

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- omit provisions that are no longer required (s 40)
- make all necessary consequential amendments (s 7(1)(k)).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

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Queensland

# Urban Land Development Authority Act 2007

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# Urban Land Development Authority Act 2007

[as amended by all amendments that commenced on or before 1 July 2010]

## An Act for the development of land in particular parts of the State, and for related purposes

### Part 1 Preliminary

#### Division 1 Introduction

##### 1 Short title

This Act may be cited as the *Urban Land Development Authority Act 2007*.

##### 2 Commencement

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

##### 3 Main purposes of Act and their achievement

- (1) For achieving its main purposes, this Act—
  - (a) provides for particular parts of the State to be declared as areas called urban development areas; and
  - (b) establishes the Urban Land Development Authority to plan, carry out, promote or coordinate and control, the development of land in those areas.
- (2) The main purposes of this Act are to facilitate the following in the areas—
  - (a) the availability of land for urban purposes;

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- (b) the provision of a range of housing options to address diverse community needs;
- (c) the provision of infrastructure for urban purposes;
- (d) planning principles that give effect to ecological sustainability and best practice urban design;
- (e) the provision of an ongoing availability of affordable housing options for low to moderate income households.

(3) In this section—

*ecological sustainability* means a 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.

*range of housing options*, to address diverse community needs, means the range of housing required to meet the range of community needs, including, for example, housing of different size, type, price, built form, density, cost, adaptability and tenure.

#### **4 Act binds all persons**

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

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## Division 2 Interpretation

### 5 Definitions

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

### 6 Development and its types

- (1) *Development* is development as defined under the Sustainable Planning Act, section 7.
- (2) *UDA assessable development* is development that a development scheme provides is UDA assessable development.
- (3) *UDA self-assessable development* is development that a development scheme provides is UDA self-assessable development.
- (4) Development other than UDA assessable development or UDA self-assessable development is *UDA exempt development*.

## Part 2 Urban development areas

### Division 1 Declaration and revocation of urban development areas

#### 7 Declaration

- (1) A regulation (a *declaration regulation*) may declare a part of the State to be an urban development area.
- (2) In making the declaration, regard must be had to the main purposes of this Act.

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## **8 Interim land use plan required**

- (1) A declaration regulation must make an interim land use plan regulating development in the urban development area declared under it.
- (2) The plan may provide for any matter mentioned in section 23(2)(a) or (3).
- (3) Until a development scheme for the area takes effect, the plan has effect as if a development scheme were in force for the area and the interim land use plan was the land use plan included in the development scheme.

## **9 Expiry of interim land use plan**

- (1) An interim land use plan for an urban development area expires 12 months after it commences.
- (2) However, a regulation may make a new land use plan for the urban development area.
- (3) Section 8(2) and (3) applies to the new land use plan.

## **10 Tabling and inspection of documents adopted in declaration regulation**

- (1) This section applies if—
  - (a) a declaration regulation makes an interim land use plan by adopting, applying or incorporating all or part of another document (the *adopted provisions*); and
  - (b) the adopted provisions are not part of, or attached to, the regulation.
- (2) The Minister must, when the regulation is tabled in the Legislative Assembly under the *Statutory Instruments Act 1992*, section 49, also table a copy of the adopted provisions.

*Note—*

The authority must keep a register of interim land use plans as amended from time to time, and publish them on its website. See section 132.

- (3) A failure to comply with this section does not invalidate or otherwise affect the regulation.

## **11 Revocation or reduction of urban development area**

- (1) This section applies if it is proposed to amend or revoke a declaration regulation (the *UDA change*) so that land in an urban development area will no longer be in an urban development area.
- (2) Subject to subsection (4), the Minister may, by notice to the relevant local government, make an amendment of the local government's planning instruments to provide for the land (the *planning instrument change*).
- (3) On the giving of the notice, the planning instrument change is, for the Sustainable Planning Act, taken to have been made by the local government.
- (4) The Sustainable Planning Act, section 117 does not apply for the making of the planning instrument change.
- (5) Before making the planning instrument change, the Minister must—
- (a) give the relevant local government the proposed planning instrument change; and
  - (b) invite it to, within 40 business days after it is given the proposed amendment, make submissions to the Minister about the proposed planning instrument change; and
  - (c) consider any submissions made under paragraph (b).
- (6) The UDA change may be made only if the Minister has made the planning instrument change.
- (7) The planning instrument change takes effect at the same time as the UDA change.

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## **12 Interim local laws**

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

## **Division 2 Relationship with Sustainable Planning Act**

### **Subdivision 1 Provisions about the declaration of urban development areas**

## **13 Existing SPA development applications**

- (1) This section applies if, immediately before the declaration of an area as an urban development area—
  - (a) an SPA development application had been made for land in the area; and
  - (b) the application was a properly made application and had not lapsed under that Act; and
  - (c) the application had not been decided.
- (2) Despite the declaration, the application must be decided under the Sustainable Planning Act, and that Act continues to apply, as if the land were not land in an urban development area.



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## **14 Existing SPA development approvals**

If, immediately before the declaration of an area as an urban development area, an SPA development approval is in effect for land in the area, the approval continues in effect as an SPA development approval.

### **14A Special provision for Northshore Hamilton urban development area**

- (1) This section applies in relation to balance port land that is in the Northshore Hamilton urban development area under this Act.
- (2) A person may apply to the authority to restart a use of premises on the land if—
  - (a) the use—
    - (i) is authorised under a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect; or
    - (ii) was a lawful use of premises immediately before the taking of effect of the first interim land use plan; or
    - (ii) is generally consistent with a use mentioned in subparagraph (i) or (ii); and
  - (b) the application is made within 6 months after the use stopped.
- (3) For making, dealing with and deciding the application, part 4, division 3 applies, with any necessary changes, as if it were a UDA development application.
- (4) A person may, under section 75, apply to the authority to change a development approval for a use mentioned in subsection (2)(a)(i) or (ii) to an extent that—
  - (a) only changes the configuration or layout of buildings, other structures or plant; and
  - (b) does not involve an extension of the area of any buildings, other structures or plant.

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- (5) A person may apply to the authority to change a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect, as if the approval were a UDA development approval.
- (6) An application under subsection (4) or (5) may be made under section 75 as if it were an amendment application under that section.

*Note—*

Under section 75(2), an amendment application may be made only if the authority is satisfied the change would not result in the relevant development being materially different.

- (7) An application mentioned in this section may be made to the authority, and approved by the authority, despite any provision of the northshore scheme that prohibits the development.
- (8) An application mentioned in this section may be made in relation to premises from the commencement until the day the term of the current lease for the premises ends.
- (9) In this section—

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

***commencement*** means the day this section commences.

***current lease***, for premises, means a lease that is in existence for the premises immediately before the commencement of this section.

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

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

## 15 Community infrastructure designations

- (1) A community infrastructure designation can not be made for land in an urban development area.

- 
- (2) However, a community infrastructure designation in force immediately before the declaration of the urban development area continues in force for the land.
  - (3) Subsection (1) applies, despite the Sustainable Planning Act, chapter 5.

*Note—*

See also part 4, division 2 (Protection of particular uses and rights).

## **Subdivision 2 Provisions about the cessation of urban development areas**

### **16 Conversion of UDA development approval to SPA development approval**

- (1) This section applies if—
  - (a) land ceases to be in an urban development area; and
  - (b) immediately before the cessation, a UDA development approval was in force for the land.
- (2) On the cessation, the UDA development approval is taken to be an SPA development approval for the land that took effect at the same time as the UDA development approval.
- (3) However, if an appeal under section 61 has been started, or is started within 20 business days after the cessation, the appeal may be decided under that section as if the cessation had not happened.

### **17 Outstanding UDA development applications**

- (1) This section applies if—
  - (a) land ceases to be in an urban development area; and
  - (b) immediately before the cessation, a UDA development application had been made for the land but not decided.
- (2) Despite the cessation, the application must continue to be decided under this Act as if—

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- (a) the land were still in an urban development area; and
  - (b) the application were being decided on the day before the cessation.
- (3) If a UDA development approval is granted because of the application, the approval is, immediately after it takes effect under this Act, taken to be an SPA development approval.

## **18 Provisions for converted SPA development approval**

- (1) This section applies for a UDA development approval that, under section 16(2) or 17(3), becomes an SPA development approval.
- (2) UDA development conditions stated in the UDA development approval are taken to be conditions of the SPA development approval.
- (3) The Sustainable Planning Act, section 461 does not apply to the SPA development approval or the conditions, or a decision relating to any of them.
- (4) To remove any doubt, it is declared that subsection (3) does not limit or otherwise affect any appeal mentioned in section 16(3).
- (5) The assessing authority under the Sustainable Planning Act for the SPA development approval is taken to be the entity that would have been the assessing authority had—
  - (a) the relevant land never been in an urban development area; and
  - (b) an SPA development application been made for the relevant development when the UDA development application for the UDA development approval was made.
- (6) A person other than the assessing authority under subsection (5) can not bring a proceeding under the Sustainable Planning Act, section 456 in relation to the SPA development approval or the conditions.

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**19 Lawful uses in urban development area**

If—

- (a) under an Act, a use of premises in an urban development area is a lawful use of the premises; and
- (b) the premises ceases to be in an urban development area; the use is taken to be a lawful use of the premises under the Sustainable Planning Act.

**Division 3 Relationship with particular Acts about local government**

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

- (1) The declaration of an area as an urban development area does not affect—
  - (a) the operation of the *City of Brisbane Act 2010* or the *Local Government Act 2009* in relation to the area; or
  - (b) the area of the relevant local government; or
  - (c) the jurisdiction, under the Acts, of the relevant local government.
- (2) However, the performance of the relevant local government's functions or the exercise of its powers under the Acts is subject to the authority's functions or powers under this Act.
- (3) Subsection (1) is subject to section 104.

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## **Part 3                      Development schemes**

### **Division 1                Making development schemes**

#### **21            Application of div 1**

This division applies on the declaration of an urban development area.

#### **22            Development scheme required**

- (1) Subject to the other provisions of this division, the authority must make a development scheme for the area as soon as practicable after the making of the declaration.
- (2) The development scheme is a statutory instrument and has the force of law.

#### **23            Content of development scheme**

- (1) The development scheme may provide for any matter that the authority considers will promote the proper and orderly planning, development and management of the area.
- (2) The development scheme must include—
  - (a) a land use plan regulating development in the area; and
  - (b) a plan for infrastructure in the area; and
  - (c) an implementation strategy to achieve the main purposes of this Act for the area, to the extent they are not achieved by the land use plan or infrastructure plan.
- (3) Without limiting subsection (2)(a), the land use plan may—
  - (a) provide for any matter about which a planning instrument may provide for an area; or
  - (b) prohibit the carrying out of particular assessable development; or

- (c) identify any UDA assessable development or UDA self-assessable development in the area; or
  - (d) state that particular development is consistent or inconsistent with the plan; or
  - (e) require public notice of UDA development applications for stated UDA assessable development in the area.
- (4) Despite subsections (1) and (2), the development scheme is subject to part 4, division 2.
- (5) In making the development scheme, the authority must consider, but is not bound by, a requirement under any of the following relevant to the area—
- (a) a planning instrument;
  - (b) a plan, policy or code made under the Sustainable Planning Act or another Act.

## **24 Preparation of proposed development scheme**

- (1) The authority must, as soon as practicable, prepare a proposed development scheme for the area.
- (2) However, before preparing the proposed scheme, the authority—
- (a) must consult, in the way it considers appropriate, with the relevant local government; and
  - (b) must make reasonable endeavours to consult, in the way it considers appropriate, with any of the following the authority considers will be likely to be affected by a development scheme for the area—
    - (i) a government entity or GOC;
    - (ii) another person or entity.

## **25 Public notification**

- (1) After preparing the proposed development scheme, the authority must—

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- (a) publish the proposed scheme on its website; and
  - (b) in a gazette notice—
    - (i) state that the proposed scheme may be inspected on the authority's website; and
    - (ii) invite anyone to make submissions on the proposed scheme within a stated period fixed by the authority (the *submission period*); and
  - (c) publish a notice to the same effect as the gazette notice at least once in a newspaper circulating in the area of the relevant local government.
- (2) The submission period must end at least 30 business days after it starts.

## **26 Submissions on proposed scheme**

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

## **27 Consideration of submissions**

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

## **28 Amendment of proposed scheme**

- (1) After complying with section 27, the authority may amend the proposed development scheme in any way it considers appropriate.
- (2) If the authority considers the amendment significantly changes the proposed scheme, it must re-comply with sections 25 and 27 for the amended scheme.



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## **29 Initial making and submission of scheme**

- (1) The authority must, as soon as practicable after complying with section 27 and 28, make the development scheme (the *submitted scheme*) and give it to the Minister.
- (2) The submitted scheme must be accompanied by a report that—
  - (a) summarises the submissions considered by the authority; and
  - (b) is about—
    - (i) the merits of the submissions; and
    - (ii) to what extent the proposed development scheme was amended to reflect the submissions.

## **30 Notice of submitted scheme**

The authority must, as soon as practicable after giving the Minister the submitted scheme, give each person (a *submitter*) who made a submission received within the submission period about the scheme a notice stating that—

- (a) the scheme has been made and submitted to the Minister; and
- (b) the authority's report about the submitted scheme can be inspected on its website; and
- (c) if the submitter is an affected owner for the relevant urban development area—that the submitter may, within 20 business days after receiving the notice, ask the Minister to amend the submitted scheme to protect the owner's interests.

## **31 Ministerial power to amend submitted scheme at affected owner's request**

- (1) The Minister may amend the submitted scheme in a way the Minister considers appropriate to protect an affected owner's interests.

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- (2) However, the amendment may be made only if—
- (a) the affected owner has, within 20 business days after being given notice of the submitted scheme under section 30, asked the Minister to amend it to protect the owner's interests; and
  - (b) the amendment is made within 40 business days after the submitted scheme was given to the Minister.

### **32 Direction to authority to engage again in public notification and submissions**

If the Minister considers an amendment of the submitted scheme significantly changes the submitted scheme, the Minister must give the authority a written direction to re-comply with sections 25, 27, 28 and 29 for the submitted scheme as amended.

### **33 When proposed scheme takes effect**

The development scheme does not take effect until it has been approved under a regulation.

*Note—*

For UDA development applications, see however section 57 (Matters to be considered in making decision).

### **34 Notice of development scheme**

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

- (a) publish the scheme on its website; and
- (b) publish at least once in a newspaper circulating in the area a notice stating that—
  - (i) the scheme has been approved; and
  - (ii) it may be inspected on the authority's website; and

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- (c) give each person who made a submission received within the submission period about the scheme a notice that—
    - (i) the scheme has been approved; and
    - (ii) the authority's report about the scheme can be inspected on its website.

## **Division 2            Amendment of development schemes**

### **Subdivision 1        Amendment by Minister**

#### **35        Power to amend at authority's request**

- (1) The Minister may, at the authority's request, amend a development scheme if—
  - (a) the amendment does not change the land use plan for the relevant urban development area; or
  - (b) the amendment changes the land use plan—the Minister considers—
    - (i) the amendment is necessary to ensure the implementation of the scheme complies with this Act; or
    - (ii) there is a significant risk of serious environmental harm, within the meaning of the *Environmental Protection Act 1994*, section 17, or serious adverse cultural, economic or social conditions occurring in the relevant urban development area; or
    - (iii) the amendment corrects an error.
- (2) To remove any doubt, it is declared that an amendment mentioned in subsection (1)(b) may be made even if it is materially detrimental to someone's interests.

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### **36 When amendment takes effect**

An amendment of a development scheme by the Minister does not take effect until it has been approved under a regulation.

### **37 Notice of amendment**

The authority must, as soon as practicable after an amendment of a development scheme by the Minister takes effect—

- (a) publish the amended development scheme on its website; and
- (b) publish at least once in a newspaper circulating in the area of the relevant urban development area, a notice stating that—
  - (i) the scheme has been amended; and
  - (ii) the amended scheme may be inspected on the authority's website; and
- (c) if the amendment was made under section 31, tell the relevant affected owner that—
  - (i) the scheme has been amended because of the request; and
  - (ii) the amended scheme may be inspected on the authority's website.

## **Subdivision 2 Amendment by authority**

### **38 Division 1 process applies**

- (1) The authority may amend a development scheme only if procedures under division 1 for making development schemes have been followed.
- (2) Division 1 applies to the amendment as if—
  - (a) a reference in the division to making a development scheme were a reference to the making of the amendment; and

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- (b) a reference in the division to a proposed development scheme were a reference to the proposed amendment.

### **Subdivision 3      Tabling and inspection of development schemes**

#### **39      Tabling and inspection requirement**

- (1) This section applies if—
- (a) a regulation under this division approves a development scheme or an amendment of a development scheme; and
  - (b) the development scheme or amendment is not part of, or attached to, the regulation.
- (2) The Minister must, when the regulation is tabled in the Legislative Assembly under the *Statutory Instruments Act 1992*, section 49, also table a copy of the development scheme or amendment.

*Note—*

The authority must keep a register of development schemes as amended from time to time, and publish them on its website. See section 132.

- (3) A failure to comply with this section does not invalidate or otherwise affect the regulation.

### **Division 3              Miscellaneous provision**

#### **40      Development scheme prevails over particular instruments**

If there is a conflict between a development scheme and any of the following instruments, the development scheme prevails to the extent of the inconsistency—

- (a) a planning instrument;
- (b) a plan, policy or code made under the Sustainable Planning Act or another Act.

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## **Part 4                      Development and uses in urban development areas**

### **Division 1                UDA development offences**

#### **41            Application of div 1**

This division applies subject to division 2.

#### **42            Carrying out UDA assessable development without UDA development approval**

- (1) A person must not carry out UDA assessable development in an urban development area without a UDA development approval for the development.

Maximum penalty—1665 penalty units.

- (2) Despite subsection (1), the maximum penalty is 17000 penalty units if the UDA assessable development is—

- (a) the demolition of a building identified in a development scheme as a building of cultural heritage significance; or  
(b) on a registered place under the *Queensland Heritage Act 1992*.

#### **43            UDA self-assessable development must comply with development scheme**

If a person carries out UDA self-assessable development in an urban development area, the person must comply with the requirements under the development scheme for the area about carrying out UDA self-assessable development.

Maximum penalty—165 penalty units.

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**44 Compliance with UDA development approval**

A person must not contravene a UDA development approval.  
Maximum penalty—1665 penalty units.

**45 Offence about use of premises**

A person must not use premises in an urban development area unless the use is a lawful use of the premises.  
Maximum penalty—1665 penalty units.

**Division 2 Protection of particular uses and rights**

**46 Exemption for particular SPA development approvals and community infrastructure designations**

- (1) This section applies to—
  - (a) an SPA development approval for land in an urban development area—
    - (i) granted under section 13(2); or
    - (ii) continued in force under section 14; and
  - (b) a community infrastructure designation continued in force, under section 15(2), for land in an urban development area.
- (2) The carrying out of development or the use of premises under the approval or community infrastructure designation is not a UDA development offence.

**47 Lawful uses of premises protected**

- (1) This section applies if, immediately before the taking of effect of a development scheme, or of an amendment of a development scheme, the use of premises was a lawful use of the premises in the relevant urban development area.

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- (2) Neither the development scheme nor the amendment can—
  - (a) stop the use from continuing; or
  - (b) further regulate the use; or
  - (c) require the use to be changed.

#### **48 Lawfully constructed buildings and works protected**

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

#### **49 Amendment of development scheme does not affect existing SPA or UDA development approval**

- (1) This section applies if—
  - (a) an SPA development approval or UDA development approval is in effect for premises in an urban development area; and
  - (b) after the approval is given, the development scheme for the area is amended.
- (2) To the extent the approval has not lapsed, the amendment does not stop or further regulate the relevant development, or otherwise affect the approval.

#### **50 Development or use carried out in emergency**

A person does not commit a UDA development offence if—

- (a) the person carries out development or a use of premises because of an emergency endangering—
  - (i) the life or health of a person; or
  - (ii) the structural safety of a building; and
- (b) the person gives notice of the development or use that would otherwise be a UDA development offence to the



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authority as soon as practicable after starting the development or use.

## **Division 3           UDA development applications**

### **Subdivision 1       Making application**

#### **51       How to make application**

- (1) Each UDA development application must—
  - (a) be made to the authority in the approved form; and
  - (b) contain, or be accompanied by, the consent of the owner of the relevant land, other than to the extent the application is for operational work; and
  - (c) be accompanied by the application fee decided by the authority.
- (2) The application is a properly made application only if—
  - (a) it complies with subsection (1); or
  - (b) the authority receives and, after considering any noncompliance with subsection (1), accepts the application.

### **Subdivision 2       Processing application**

#### **52       Application of sdiv 2**

This subdivision applies if a UDA development application is a properly made application under section 51.

#### **53       Information requests to applicant**

- (1) The authority may, by notice (an *information request*), ask the applicant to, within a stated period of at least 20 business

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days, give further stated information the authority needs to decide the application.

- (2) However, an information request can not be made more than 20 business days after the making of the application.
- (3) If the applicant does not comply with the request, the authority may refuse the application.
- (4) However, the authority may refuse the application only if it has given the applicant at least 10 business days notice of its intention to do so.

## **54 Notice of application**

- (1) This section applies only if—
  - (a) the land use plan or interim land use plan for the relevant urban development area requires public notice of UDA development applications; or
  - (b) the authority, within 20 business days after the making of the application, gives the applicant notice that the applicant must comply with this section.
- (2) The applicant must—
  - (a) publish a notice about the application in a newspaper circulating in the area of the relevant local government; and
  - (b) give a copy of the notice to each entity the authority requires the applicant to give a copy to; and
  - (c) place the notice on the land in the way prescribed under a regulation; and
  - (d) give the notice to the owners of all land that adjoins the land.
- (3) However, if an information request has been given for the application, the steps under subsection (2) must not start until the applicant has complied with the request.
- (4) The notice must—
  - (a) state that—

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- (i) the applicant has made a UDA development application; and
  - (ii) the application may be inspected on the authority's website; and
  - (b) describe the relevant land; and
  - (c) generally describe the relevant development; and
  - (d) invite anyone to make submissions to the authority about the application within a stated period (the *submission period*); and
  - (e) state that the making of a submission does not give rise to a right of appeal against a decision about the application.
- (5) The submission period—
- (a) must not start before subsection (2) is complied with; and
  - (b) must be at least 20 business days; and
  - (c) must not include any business day from 20 December in a particular year to 5 January in the following year, both days inclusive.
- (6) A requirement under subsection (2)(b) may be made only if the authority considers the entity has an interest in the outcome of the application.

## **55 Deciding application generally**

- (1) The authority can not decide the application unless the authority is satisfied—
- (a) if an information request has been made for the application—the request has been complied with; and
  - (b) if section 54 applies for the application—the applicant has complied with the section; and
  - (c) the submission period for the application has ended.

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- (2) Subject to section 53(3), the authority must decide the application within 40 business days after it is satisfied as mentioned in subsection (1).
- (3) However, a failure to comply with subsection (2) does not prevent the authority from deciding the application.
- (4) The authority must decide to—
  - (a) grant all or part of the UDA development approval applied for; or
  - (b) grant all or part of the UDA development approval applied for subject to conditions decided by the authority (each a *UDA development condition*); or
  - (c) refuse to grant a UDA development approval.

## **56 Restrictions on granting approval**

- (1) The authority can not grant the UDA development approval applied for if the relevant development would be inconsistent with the land use plan for the relevant urban development area unless—
  - (a) a preliminary approval under the Sustainable Planning Act is in force for the relevant land; and
  - (b) the relevant development would be consistent with the preliminary approval.
- (2) To remove any doubt, it is declared that subsection (1) does not require the authority to grant the UDA development approval only because subsection (1)(a) and (b) apply.

## **57 Matters to be considered in making decision**

- (1) In deciding the application, the authority must consider—
  - (a) the purposes of this Act; and
  - (b) any submissions made to it about the application, during the submission period; and

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- (c) the following, as in force or as prepared when the application is decided—
- (i) if there is a development scheme for the relevant urban development area—the development scheme;
  - (ii) if there is no development scheme for the area but there is a proposed development scheme for the area—the proposed development scheme; and
  - (iii) if there is no development scheme for the area and no proposed development scheme for the area—the interim land use plan for the area; and
- (d) any preliminary approval under the Sustainable Planning Act in force for the relevant land.
- (2) Also, in deciding the application, if—
- (a) there is both a development scheme and a proposed development scheme for the area; and
  - (b) the proposed scheme was prepared after the development scheme took effect;
- the authority may, subject to section 56, give the weight it considers appropriate to the proposed scheme.
- (3) Subsection (1)(b) does not prevent the authority from considering a submission about the application made to it after the submission period has ended.
- (4) In this section—
- proposed development scheme*, for the area, means a proposed development scheme, or a proposed amendment of a development scheme, for the area published under section 25, or section 25 as applied under section 38, that has not taken effect.

## 58 UDA development conditions

Without limiting section 55(4), a UDA development condition may—

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- (a) nominate a stated entity to be the nominated assessing authority for the condition; or
- (b) relate to infrastructure, and the payment of contributions or the surrender of land for infrastructure, for any urban development area; or
- (c) require the making of stated improvements to the relevant land; or
- (d) impose a condition or restriction on a disposal of the relevant land.

## 59 Decision notice

- (1) Subject to section 60, the authority must, within 5 business days after deciding the application, give notice of the decision (the *decision notice*) to—
  - (a) the applicant; and
  - (b) the relevant local government; and
  - (c) if the decision was to grant a UDA development approval—any nominated assessing authority.
- (2) The decision notice must—
  - (a) be in the approved form; and
  - (b) state the decision; and
  - (c) state any UDA development conditions decided.
- (3) If the decision was to refuse to grant an approval, the decision notice must state the reasons for the refusal.
- (4) If the decision was to grant an approval—
  - (a) the decision notice is taken to be a UDA development approval; and
  - (b) the authority must, when giving the decision notice to an entity mentioned in subsection (1), also give the entity a copy of any plans and specifications approved by the authority concerning the approval.
- (5) In this section—

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*approval* means a UDA development approval, with or without UDA development conditions.

**60 Restriction on giving decision notice if authority has a financial interest**

- (1) This section applies if—
  - (a) the authority has a financial interest in the relevant development because of its participation in a business arrangement other than with a government entity, GOC or local government; and
  - (b) the authority proposes to approve the application or approve it subject to conditions.
- (2) The authority can not give a decision notice for the application unless the Minister has approved the proposed decision.

- (3) In this section—

*business arrangement* means a company, partnership, trust or joint venture or an arrangement with anyone for sharing profits.

*participate* includes form, promote, establish, enter into, manage, dissolve, wind-up or otherwise externally administer and do anything else incidental to any of those things.

### **Subdivision 3 Appeals**

**61 Right of appeal against particular conditions**

- (1) This section applies if a UDA development condition includes a nominated assessing authority (the *entity*).
- (2) The person who made the relevant UDA development application may appeal to the Planning and Environment Court against the authority's decision to impose the condition.

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- (3) An appeal under subsection (1) must be started within 20 business days after the day the applicant is given notice of the decision.
- (4) The Sustainable Planning Act, chapter 7, part 1, divisions 11 to 13, apply to the appeal as if—
  - (a) it were an appeal mentioned in the divisions; and
  - (b) the entity were the only other party to the appeal.
- (5) However—
  - (a) the appellant must, as soon as practicable after giving the entity the notice of the appeal required under the Sustainable Planning Act, chapter 7, part 1, division 11, give the authority a copy of the notice; and
  - (b) the authority may, by lodging a notice of election with the registrar of the court, elect to become a party to the appeal.
- (6) The authority must give the other parties a copy of the notice of election as soon as practicable after it is lodged.

## **Subdivision 4 Ministerial call in**

### **62 Application of sdiv 4**

This subdivision applies if a decision notice is given for a UDA development application.

### **63 Minister's power to call in**

- (1) The Minister may, by notice (the *call in notice*) to the authority given within the relevant period, call in the application.
- (2) However, the Minister may give the call in notice only if the Minister considers the relevant development involves a State interest.
- (3) In this section—



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*relevant period* means—

- (a) for a decision to refuse to grant a UDA development approval, 10 business days after the giving of the decision notice; or
- (b) for a decision to grant a UDA development approval, the latest of the following periods to end—
  - (i) 10 business days after the approval takes effect;
  - (ii) 10 business days after the authority receives a copy of a notice of appeal relating to the approval.

#### **64 Call in ends decision, approval and any appeal**

- (1) On the giving of the call in notice—
  - (a) the decision the subject of the notice and any UDA development approval granted because of the decision have no further effect; and
  - (b) any appeal to the Planning and Environment Court relating to the approval lapses.
- (2) However, subsection (1) does not affect the validity of the approval or anything done under it before the giving of the notice.

#### **65 Notice of call in**

The authority must give a copy of the call in notice to—

- (a) the person who made the relevant UDA development application; and
- (b) the owner of the relevant land; and
- (c) the relevant local government; and
- (d) any nominated assessing authority under any UDA development approval granted under the decision; and
- (e) if an appeal relating to the approval has been started in the Planning and Environment Court—that court; and

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- (f) anyone who made a submission to the authority about the application, during the submission period.

## **66 Minister must re-decide application**

- (1) The Minister must, within 40 business days after giving the call in notice, re-decide the application, in the way mentioned in section 55(4).
- (2) However, a failure to comply with subsection (1) does not prevent the Minister from re-deciding.
- (3) Sections 55(4), and 56 to 59 apply for the making of the decision as if a reference to the authority were a reference to the Minister.
- (4) However, in making the decision, the Minister may also consider a State interest.
- (5) In making the decision, the Minister may have regard to information from any source, even if the information was not available to the authority when it made its decision.
- (6) The Minister can not—
  - (a) change or agree to change the application; or
  - (b) grant a UDA development approval for development that is materially different from the development applied for.
- (7) The Minister's decision is taken, for this Act, other than section 61, to be the authority's decision on the application.
- (8) No right of appeal applies under section 61 in relation to the Minister's decision.

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## **Subdivision 5      Miscellaneous provisions**

### **67      Approved material change of use required for particular developments**

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

### **68      Changing application**

- (1) A UDA development application may be changed by the applicant only if—
  - (a) the applicant has given the authority notice stating details of the proposed change; and
  - (b) the authority has agreed in writing to the making of the change.
- (2) The agreement may be given only if the authority is satisfied the change would not result in the relevant development being materially different.

### **69      Withdrawing application**

- (1) A UDA development application may be withdrawn by the applicant by notice given to the authority at any time before the application is decided.

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- (2) The authority may refund all or part of any fee paid for the application.

## **Division 4            UDA development approvals**

### **Subdivision 1        General provisions**

#### **70        What approval authorises**

A UDA development approval authorises the carrying out of UDA assessable development to the extent provided for under the approval.

#### **71        Duration of approval**

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

*Note—*

A call in notice under division 3, subdivision 4 can also end the effect of a UDA development approval.

#### **72        Approval attaches to the relevant land**

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

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approved for the land, or the land as reconfigured under the UDA development approval.

### **73 Provision for enforcement of UDA development conditions**

- (1) If there is a nominated assessing authority for a UDA development condition, the Sustainable Planning Act, chapter 7, part 3, divisions 2 and 3, and any other Act that refers to an SPA development approval applies to the condition as if—
  - (a) the relevant UDA development approval were an SPA development approval; and
  - (b) the nominated assessing authority were an assessing authority under the Sustainable Planning Act for development under the UDA development approval; and
  - (c) the reference to a development offence under the Sustainable Planning Act were a reference to a UDA development offence.
- (2) To remove any doubt, it is declared that this section does not limit or otherwise affect the authority's ability to apply for an enforcement order or to start a proceeding under this Act relating to the condition.

## **Subdivision 2 Cancellations and changes**

### **74 Cancellation**

- (1) The authority may cancel a UDA development approval only if the owner of the relevant land consents in writing to the cancellation.
- (2) However, the authority can not cancel the UDA development approval if the relevant development has started.
- (3) The authority may refund all or part of any fee paid for the relevant UDA development application.

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## **75 Application to change UDA development approval**

- (1) A person may apply (the *amendment application*) to the authority to change a UDA development approval.
- (2) However, the amendment application may be made only if the authority is satisfied the change would not result in the relevant development being materially different.
- (3) Division 3 applies for the amendment application as if—
  - (a) a reference in the division to a UDA development application were a reference to the amendment application; and
  - (b) a reference in the division to a UDA development approval were a reference to a changed UDA development approval; and
  - (c) a reference in the division to the granting of a UDA development approval were a reference to the making of the change.
- (4) However, section 54(1)(a) does not apply for the amendment application.
- (5) If the person is not the owner of the relevant land for the UDA development approval, the amendment application must be accompanied by the owner's consent.

## **Subdivision 3 Lapsing**

### **76 When approval lapses generally**

- (1) This section applies subject to section 78(5) and any extension granted under section 78.
- (2) A UDA development approval lapses at the end of its currency period unless—
  - (a) for development that is a material change of use—the change of use happens before the currency period ends; or

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- (b) for development that is reconfiguring a lot—the plan for the reconfiguration of the lot is given to the authority for its approval before the currency period ends; or
  - (c) for development not mentioned in paragraph (a) or (b)—development under the approval substantially starts before the currency period ends.
- (3) To the extent the UDA development approval is for development other than a material change of use or reconfiguring a lot, its *currency period* is—
- (a) generally—2 years from the day the authority takes effect (the *day of effect*); or
  - (b) if the approval states a different period—the stated period.
- (4) To the extent the UDA development approval is for development that is a material change of use, its *currency period* is—
- (a) 4 years from the day of effect; or
  - (b) if the approval states a different period—the stated period.
- (5) To the extent the UDA development approval is for development that is reconfiguring a lot, its *currency period* is—
- (a) if the reconfiguring does not require operational work—2 years from the day of effect; or
  - (b) if the reconfiguring requires operational work—4 years from the day of effect; or
  - (c) if the approval states a different period—the stated period.

## **77 Application to extend currency period**

- (1) Before a UDA development approval lapses under section 76(2), a person having an interest in the relevant land may apply to the authority to extend the approval's currency period applying under section 76.

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- (2) The application must be—
  - (a) in the approved form; and
  - (b) made before the currency period ends; and
  - (c) accompanied by the application fee decided by the authority.

## **78 Deciding extension application**

- (1) This section applies if an application for an extension is made under section 77.
- (2) Before granting or refusing the extension, the authority must consult with each nominated assessing authority under the UDA development approval.
- (3) The authority must grant or refuse the extension within—
  - (a) generally—20 business days after the making of the application; or
  - (b) if, during the 20 business days, the authority and the applicant agree on a longer period—the longer period.
- (4) The authority must, within 5 business days after making the decision, give notice of the decision to the applicant and each nominated assessing authority under the UDA development approval.
- (5) Despite section 76, the UDA development approval does not lapse until the authority has given the applicant the notice under subsection (4).
- (6) If the decision was to refuse the extension, the notice must state the reasons for the refusal.

## **Division 5 Miscellaneous provisions**

### **79 Restriction on particular land covenants**

A covenant under the *Land Title Act 1994* or the *Land Act 1994* for land in an urban development area is of no effect to



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the extent the covenant is inconsistent with the development scheme for the area.

## **80 Plans of subdivision**

- (1) This section applies to a plan of subdivision if—
  - (a) under another Act, the plan requires the authority's approval, in whatever form, before it can be registered or otherwise recorded under that Act; and
  - (b) the plan would, other than for the requirement mentioned in paragraph (a), be required to undergo compliance assessment under the Sustainable Planning Act (*SPA compliance assessment*).
- (2) The plan must undergo SPA compliance assessment as if SPA compliance were required for it.
- (3) For the SPA compliance assessment, the SPA compliance provisions apply—
  - (a) as if a reference in the provisions to a subdivision plan were a reference to the plan; and
  - (b) as if a reference in the provisions to the compliance assessor or the local government were a reference to the authority; and
  - (c) as if a reference in the provisions to a development permit were a reference to a UDA development approval; and
  - (d) as if a reference in the provisions to a condition of a development permit were a reference to a UDA development condition of the UDA development approval; and
  - (e) as if a reference in the provisions to rates and charges levied for land included a reference to a special rate or charge; and
  - (f) as if a reference in the provisions to assessable development were a reference to UDA assessable development.

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(4) In this section—

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

*SPA compliance provisions* means any provisions of a regulation made under the Sustainable Planning Act about compliance assessment under that Act of a plan of subdivision.

## **Part 5 Proceedings and related matters**

### **Division 1 Enforcement proceedings in Planning and Environment Court**

#### **81 Starting proceeding for enforcement order**

- (1) The authority may start a proceeding in the Planning and Environment Court—
  - (a) for an enforcement order to remedy or restrain the commission of a UDA development offence; or
  - (b) if the authority has started a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 82.
- (2) A proceeding for an enforcement order may be started whether or not anyone's right has been, or may be, infringed by, or because of, the commission of the offence.

#### **82 Making interim enforcement order**

- (1) The Planning and Environment Court may make an order pending a decision of a proceeding for an enforcement order if the court is satisfied it would be appropriate to make the order.

- (2) The court may make the order subject to conditions.
- (3) However, a condition can not require the authority to give an undertaking about damages.

### **83 Making enforcement order**

- (1) The Planning and Environment Court may make an enforcement order if the court is satisfied the relevant offence—
  - (a) is being, or has been, committed; or
  - (b) will be committed unless the enforcement order is made.
- (2) If the court is satisfied the offence is being or has been committed, it may make the order whether or not there has been a prosecution for the offence.

### **84 Effect of enforcement order**

- (1) An enforcement order may direct a party to the proceeding for the order—
  - (a) to stop an activity that constitutes, or will constitute, a UDA development offence; or
  - (b) not to start an activity that will constitute a UDA development offence; or
  - (c) to do anything required to stop committing a UDA development offence; or
  - (d) to return anything to a condition as close as practicable to the condition it was in immediately before a UDA development offence was committed; or
  - (e) to do anything about a development or use to comply with this Act.
- (2) Without limiting the Planning and Environment Court's powers, it may make an enforcement order requiring—
  - (a) the repairing, demolition or removal of a building; or

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- (b) for a UDA development offence relating to the clearing of vegetation on freehold land—
  - (i) rehabilitation or restoration of the area cleared; or
  - (ii) if the area cleared is not capable of being rehabilitated or restored—the planting and nurturing of stated vegetation on a stated area of equivalent size.
- (3) An enforcement order must state the time by which it must be complied with.
- (4) An enforcement order may—
  - (a) be in terms the court considers appropriate to secure compliance with this Act; and
  - (b) state that contravention of the order is a public nuisance.
- (5) In this section—

*clearing*, of vegetation—

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

## **85 Powers about enforcement orders**

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

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if the relevant person engages, or continues to engage, in the activity.

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

*Note—*

For costs, see the Sustainable Planning Act, section 457.

- (5) In this section—  
*environment* see the Sustainable Planning Act, schedule 3.

## **86 Offence to contravene enforcement order**

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

Maximum penalty—3000 penalty units or 2 years imprisonment.

*Note—*

See also the Sustainable Planning Act, section 439 (Contempt and contravention of orders).

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## **Division 2                      Proceedings for offences**

### **87            Proceedings for offences**

- (1) An offence against the following is a misdemeanour—
  - (a) section 86;
  - (b) section 140, to the extent the offence relates to an offence by a corporation against section 86.

*Editor's note—*

section 140 (Executive officer must ensure corporation does not commit particular offences)

- (2) Any other offence against this Act is a summary offence.
- (3) A proceeding for a summary offence against this Act may be brought only by the authority or a person acting for the authority.

### **88            Limitation on time for starting proceeding for summary offence**

A proceeding for a summary offence against this Act must start—

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

### **89            Orders Magistrates Court may make in offence proceeding**

- (1) After hearing a complaint for an offence against this Act, the Magistrates Court may make an order against the defendant that the court considers appropriate.
- (2) The order may be made in addition to, or in substitution for, any penalty the court may otherwise impose.
- (3) The order may require the defendant—

- (a) to stop development or carrying on a use; or
  - (b) to demolish or remove work carried out; or
  - (c) to restore, as far as practicable, premises to the condition the premises were in immediately before development or use of the premises started; or
  - (d) to do, or not to do, another act to ensure development or use of the premises complies with a UDA development approval or a development scheme; or
  - (e) for development that has started—to make a UDA development application for the development.
- (4) The order must state the time by which, or period within which, the order must be complied with.
- (5) The order may state that contravention of the order is a public nuisance.

## **90 Offence to contravene Magistrates Court order**

A person against whom an order under section 89 has been made must comply with the order.

Maximum penalty—1665 penalty units or imprisonment for 12 months.

## **Division 3 Miscellaneous provisions**

### **91 Authority's power to remedy stated public nuisance**

- (1) This section applies if an enforcement order or an order under section 89 states that contravention of the order is a public nuisance.
- (2) If the order is not complied with, the authority may undertake any work necessary to remove the nuisance.

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- (3) If the authority carries out works under subsection (2), it may recover from the person against whom the order was made the reasonable cost of the works, as a debt.

## **92 Planning and Environment Court may make declarations**

- (1) The authority may bring a proceeding in the Planning and Environment Court for a declaration about—
  - (a) a matter done, to be done or that should have been done for this Act; or
  - (b) the construction of this Act; or
  - (c) the lawfulness of land use or development relating to an urban development area.
- (2) The court may make an order about a declaration made under subsection (1).

# **Part 6 Urban Land Development Authority**

## **Division 1 Establishment**

### **93 Establishment of authority**

The Urban Land Development Authority is established.

### **94 Authority represents the State**

- (1) The authority represents the State.
- (2) Without limiting subsection (1), the authority has the status, privileges and immunities of the State.



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## **95 Application of other Acts**

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

## **Division 2 Authority's functions and powers**

### **96 Main function and its achievement**

- (1) The authority's main function is to give effect to the purposes of this Act.
- (2) The main function is performed mainly by the authority—
  - (a) planning, developing and managing land in urban development areas, for urban purposes; and
  - (b) deciding UDA development applications; and
  - (c) coordinating the provision of infrastructure for urban development areas.
- (3) Also, the authority may help the development of, or carry out activities or services relating to, land that adjoins an urban development area if it considers that doing so will help the performance of the authority's functions for the area.

### **97 General powers**

- (1) Subject to any Ministerial direction, the authority has the powers—

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- (a) necessary or convenient to perform its functions; or
  - (b) incidental to the performance of the functions; or
  - (c) to help to achieve the purposes of this Act.
- (2) Without limiting subsection (1), the authority may—
- (a) enter into infrastructure agreements under the Sustainable Planning Act, and other contracts; and
  - (b) acquire, hold, dispose of, and deal with, property; and
  - (c) appoint agents and attorneys; and
  - (d) engage consultants; and
  - (e) coordinate or provide infrastructure for urban development areas; and
  - (f) fix charges and other terms, for the infrastructure; and
  - (g) coordinate, provide or pay for, infrastructure on land outside urban development areas to help the performance of the authority's functions relating to urban development areas; and
  - (h) establish funds to ensure the provision of infrastructure under development schemes continues to be provided; and
  - (i) do anything necessary or convenient to be done in the performance of its functions under this or another Act.
- (3) In performing its functions, the authority may act alone or in conjunction with public sector units, local governments, agencies or instrumentalities of the Commonwealth and other persons.
- (4) The authority also has the powers conferred on it under another Act.

## **98 Conditional disposal of land**

- (1) The authority may impose a condition or restriction on a transfer of land by the authority.

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- (2) Without limiting subsection (1) the authority and a transferee may agree that the transferee—
    - (a) must make stated improvements to the land; or
    - (b) is subject to stated restrictions on the transfer of or dealing with the land.
  - (3) An agreement under subsection (2) may provide for remedies against, and the power to impose sanctions on, the transferee relating to the agreement.

## **99 Roads and road closures**

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

## **100 Power to vest land in permanently closed road or unallocated State land in urban development areas**

- (1) The Authority may, by gazette notice, declare that any of the following land in an urban development area is vested in the authority, in fee simple—

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- (a) land that comprised a road under the *Land Act 1994* that has been permanently closed under section 99;
  - (b) unallocated State land under the *Land Act 1994*.
- (2) The chief executive of the department in which the *Land Act 1994* is administered must, under that Act, register the vesting if the authority lodges in the land registry under that Act—
- (a) a request under that Act to register the vesting; and
  - (b) if that chief executive so requires—a plan of subdivision under that Act for the land the subject of the vesting; and
  - (c) a copy of the gazette notice.
- (3) On the registration of the request to vest, the Governor in Council may issue to the authority a deed of grant under the *Land Act 1994* for the land the subject of the vesting.
- (4) Despite the *Land Act 1994* and the *Land Title Act 1994*, no fee is payable by the authority in relation to the registration of the vesting or to give effect to it.

## **101 Special rates or charges**

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

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

*Note—*

See also section 127 (Recovery of special rate or charge).

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

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- (8) Subsection (1) is taken to have been complied with if the special rate or charge is made and levied on—
- (a) all rateable land that, at the time of making and levying the rate or charge, could reasonably be identified as land on which the rate or charge may be made and levied; or
  - (b) all rateable land on which the rate or charge may be made and levied, other than land accidentally omitted.
- (9) In this section—  
*rateable land* see the *Local Government Act 2009*.

## **102 Application of special rate or charge**

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

## **103 Application of local government entry powers for authority's functions or powers**

- (1) This section applies to land in, or a structure on, an urban development area or a lot that adjoins an urban development area.
- (2) The *Local Government Act 2009*, sections 144, 146 and 147 apply to the authority and the authorised employees or agents of the authority as if—
  - (a) the authority were a local government; and
  - (b) the authorised employee or agent were an employee or agent of a local government; and
  - (c) a reference to the local government were a reference to the authority; and
  - (d) a reference to an employee or agent of the local government were a reference to an authorised employee or agent of the authority; and

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- (e) a reference in the sections to any of the following were a reference to the performance of the authority's functions or the exercise of its powers—
- (i) the exercise of the jurisdiction of local government;
  - (ii) the exercise of a power under a local government Act;
  - (iii) the exercise of the local government's jurisdiction;
  - (iv) local government purposes; and
- (f) a reference to the local government's facilities on the land were a reference to the authority's facilities on the land.
- (3) However, if the occupier of the land or structure is present at the place, before entering the place, an authorised employee or agent of the authority must do, or make a reasonable attempt to do, the following things—
- (a) identify himself or herself to the occupier, by complying with section 124;
  - (b) tell the occupier the purpose of the entry;
  - (c) seek the consent of the occupier to the entry;
  - (d) tell the occupier the officer is permitted under this Act to enter the place without the occupier's consent.
- (4) If the occupier is not present, the employee or agent must take reasonable steps to advise the occupier of the employee's or agent's intention to enter the place.
- (5) Subsections (3) and (4) do not require the employee or agent to take a step that the employee or agent reasonably believes may frustrate or otherwise hinder the purposes of the entry.
- (6) In this section—
- authorised employee or agent***, of the authority, means its employees or agents who have, under section 123, been issued with an identity card that is still in force.

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## 104 By-laws

- (1) The authority may make by-laws under this Act for urban development areas about any matter for which a local law may be made, including the creation of offences.
- (2) However, a by-law can not fix a penalty of more than 20 penalty units for an offence against the by-law.
- (3) A by-law may provide that a stated local law does not apply, or applies with stated changes, within an urban development area.
- (4) If a by-law provides that a stated local law does not apply, or applies with stated changes, within an urban development area, the local law does not apply, or applies with the stated changes, within the area.
- (5) A by-law must be approved by the Governor in Council.

*Note—*

The effect of subsection (5) is that a by-law is subordinate legislation. See the *Statutory Instruments Act 1992*, sections 7, 8(b)(i) and 9(1)(a).

## Division 3 Membership of authority

### 105 Members

- (1) The authority consists of 9 persons (each a *member*), made up of—
  - (a) the chairperson (an *appointed member*); and
  - (b) the chief executive of the department in which the *State Development and Public Works Organisation Act 1971* is administered; and
  - (c) the chief executive of the department in which the *Financial Accountability Act 2009* is administered; and
  - (d) 6 other members (each also an *appointed member*).
- (2) Appointed members are to be appointed by the Governor in Council.



- (3) An appointed member may be appointed on a full-time or part-time basis.
- (4) Appointed members are appointed under this Act and not the *Public Service Act 2008*.

## **106 Eligibility for appointment**

- (1) A person is eligible for appointment as an appointed member only if the person—
  - (a) has extensive knowledge of and experience in 1 or more of the following—
    - (i) local government;
    - (ii) architecture, urban design or planning;
    - (iii) social policy or community development;
    - (iv) law, economics or accounting;
    - (v) the construction or development industries;
    - (vi) natural resource and environmental management;  
or
  - (b) has other knowledge and experience the Governor in Council considers appropriate.
- (2) However, at least 2 appointed members must have local government experience.

## **107 Duration of appointment**

- (1) Subject to sections 109 and 110, an appointed member holds office for the term stated in the member's instrument of appointment.
- (2) The term stated in the instrument of appointment must not be longer than 5 years.

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## **108 Terms and conditions of appointment**

- (1) An appointed member is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) An appointed member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

## **109 Resignation**

An appointed member may resign by signed notice given to the Minister.

## **110 Termination of appointment**

The Governor in Council may end an appointed member's appointment if the member—

- (a) is convicted of an indictable offence; or
- (b) is or becomes an insolvent under administration under the Corporations Act, section 9; or
- (c) is disqualified from managing corporations under the Corporations Act, part 2D.6; or
- (d) becomes incapable of being a member because of physical or mental incapacity; or
- (e) is guilty of misconduct of a type that could warrant dismissal from the public service if the member were an officer of the public service; or
- (f) does not, without reasonable excuse, comply with section 111; or
- (g) fails to comply with section 135.

*Editor's note—*

Corporations Act, part 2D.6 (Disqualification from managing corporations)

section 135 (Privacy)

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## 111 Disclosure of interests

- (1) This section applies if—
  - (a) a member, or a close relative of a member, has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the authority; and
  - (b) the interest could conflict with the proper performance of the member's functions for the matter.
- (2) The member must, as soon as practicable, disclose the interest to—
  - (a) for the chairperson—all the other members; or
  - (b) for another member—the chairperson.
- (3) If a member has disclosed an interest relating to a matter, the member must not participate in the authority's consideration of the matter.
- (4) A member must not fail to comply with this section.  
Maximum penalty—100 penalty units.
- (5) In this section—  
*close relative*, of a member, means the member's—
  - (a) spouse; or
  - (b) parent or grandparent; or
  - (c) brother or sister; or
  - (d) child or grandchild.

## 112 Protection of members from civil liability

- (1) A member, or a person acting in the office of a member, is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act or a direction or a requirement under this Act.
- (2) If subsection (1) prevents a civil liability attaching to the member or person, the liability attaches instead to the State.

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## **Division 4                      Meetings and other business of authority**

### **113      Conduct of business**

- (1) A regulation may provide for how the authority must conduct its business, including its meetings.
- (2) Subject to subsection (1) and this division, the authority may conduct its business, including its meetings, in the way it considers appropriate.

### **114      Times and places of meetings**

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

### **115      Quorum**

A quorum for an authority meeting is more than half of the number of members.

### **116      Presiding at meetings**

- (1) The chairperson is to preside at all authority meetings at which the chairperson is present.
- (2) If the chairperson is not present, the member chosen by the members present is to preside.

### **117      Conduct of meetings**

- (1) The authority may hold meetings, or allow members to take part in its meetings, by using any technology allowing

reasonably contemporaneous and continuous communication between persons taking part in the meeting.

- (2) A person who takes part in an authority meeting under subsection (1) is taken to be present at the meeting.
- (3) A decision at an authority meeting must be a majority decision of the members present.

### **118 Decisions outside meetings**

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

### **119 Minutes and record of decisions**

The authority must keep—

- (a) minutes of its meetings; and
- (b) a record of any decisions under section 118.

## **Division 5 Staff of authority**

### **120 Chief executive officer**

- (1) The authority must appoint and employ a chief executive officer.
- (2) However, before a chief executive officer is appointed, the officer's remuneration and allowances and other terms and conditions of the employment must be approved by the Governor in Council.
- (3) The chief executive officer is employed under this Act and not the *Public Service Act 2008*.

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## **121 Preservation of rights of chief executive officer**

- (1) This section applies if an officer of the public service is appointed as the chief executive officer.
- (2) The person keeps all rights accrued or accruing to the person as an officer of the public service as if service as the chief executive officer were a continuation of service as a public service officer.
- (3) At the end of the person's term of office or resignation as the chief executive officer—
  - (a) the person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to the office the person held before being appointed as the chief executive officer; and
  - (b) the person's service as the chief executive officer is taken to be service of a like nature in the public service for deciding the person's rights as an officer of the public service.

## **122 Other staff**

- (1) The authority may employ other staff it considers appropriate to perform its functions.
- (2) The other staff are appointed under the *Public Service Act 2008*.
- (3) The chairperson may arrange with the chief executive of a department, or with another unit of public administration, for the services of officers or employees of the department or other unit to be made available to the authority.

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## **Division 6                      Identity cards for particular    employees and agents**

### **123      Issue of identity card**

- (1) The chief executive officer must issue an identity card to each individual whom the authority authorises to enter premises, under section 103.

*Editor's note—*

section 103 (Application of local government entry powers for authority's functions or powers)

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

### **124      Production or display of identity card**

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

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## **125 Return of identity card**

If the individual ceases to be authorised as mentioned in section 123, the individual must return the individual's identity card to the chief executive officer within 20 business days after ceasing to be so authorised unless the individual has a reasonable excuse.

Maximum penalty—20 penalty units.

## **Division 7 Miscellaneous provisions**

### **126 Report about person's criminal history for particular appointments**

- (1) To decide whether to recommend to the Governor in Council a person for appointment as an appointed member, the Minister may ask the commissioner of the police service for—
  - (a) a written report about the person's criminal history; and
  - (b) a brief description of the circumstances of any conviction mentioned in the criminal history.
- (2) To decide whether a person is appropriate to be appointed as the chief executive officer, the authority may ask the commissioner of the police service for—
  - (a) a written report about the person's criminal history; and
  - (b) a brief description of the circumstances of any conviction mentioned in the criminal history.
- (3) The commissioner of the police service must comply with a request under subsection (1) or (2).
- (4) However, the Minister or authority may make a request about a person under subsection (1) or (2) only if the person has given the Minister or authority written consent for the request.
- (5) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.



- 
- (6) The Minister or authority must ensure a report given to the Minister or authority under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (7) The Minister may delegate the Minister's power's under this section to an appropriately qualified public service officer.
- (8) In this section—
- criminal history***, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than for a spent conviction.
- spent conviction*** means a conviction—
- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

## **127 Recovery of special rate or charge**

- (1) A special rate or charge does not become owing until 20 business days after the owner or occupier on whom the charge is levied receives a notice from the authority stating the special rate or charge and its amount.
- (2) If there is more than 1 owner or occupier of the land, all the owners or occupiers are jointly and severally liable to pay the amount.
- (3) If the amount becomes owing under subsection (1), the State may recover it from the owner or occupier as a debt.
- (4) Also, the State may recover the amount from the owner for the time being of the land.
- (5) If the State may recover the amount under this section, the *Local Government Act 1993*, section 1018 and chapter 14, parts 6 and 7, apply for the amount as if—
- (a) the special rate or charge were a rate under that Act; and

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- (b) a reference to an overdue rate were a reference to the amount; and
- (c) a reference to a local government were a reference to the authority; and
- (d) a reference to the chief executive officer of a local government were a reference to the chief executive officer of the authority.

### **128 Application fees**

- (1) This section applies if the authority is deciding the fee for an application under this Act.
- (2) The fee can not be more than the actual cost of considering and processing the application.
- (3) However, for the following applications the fee may also include a reasonable component to recover the authority's costs of making or amending the relevant development scheme—
  - (a) a UDA development application;
  - (b) an application under section 75 to change a UDA development approval.

### **129 Giving information about roads to relevant local government**

- (1) This section applies if the authority performs a function or exercises a power relating to a road or former road in an urban development area.
- (2) The authority must give the relevant local government the information the authority has to allow the local government to comply with its obligation for its map and register of roads under the *Local Government Act 2009*, section 74.

### **130 Ministerial directions or guidelines to the authority**

- (1) The Minister may give the authority—

- 
- (a) a written direction about the performance of its functions (a *Ministerial direction*); or
  - (b) guidelines to help the authority perform its functions.
- (2) The Minister must, within 14 sitting days after giving a Ministerial direction, table a copy of it in the Legislative Assembly.
  - (3) The authority must comply with the direction.

### **131 Ministerial access to information**

- (1) The Minister may by notice require the authority to give the Minister stated information or stated documents, or copies of documents, in the authority's possession.
- (2) The authority must comply with the requirement.

### **132 Registers**

- (1) The authority must keep a register of each of the following—
  - (a) interim land use plans as amended from time to time;
  - (b) each proposed development scheme or proposed amendments of development schemes under part 3;
  - (c) reports on development schemes, under section 29(2);
  - (d) development schemes that have taken effect;
  - (e) UDA development applications;
  - (f) UDA development approvals;
  - (g) by-laws;
  - (h) special rates and charges;
  - (i) Ministerial directions;
  - (j) annual reports under section 134.
- (2) The authority may also keep a register of other documents or information relating to this Act that the authority considers appropriate.

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- (3) The authority may keep a register in the way it considers appropriate.
- (4) However, the documents included in the registers must also be published on the authority's website.

### **133 Access to registers**

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

### **134 Annual report**

- (1) The authority must prepare and give the Minister a written report about the performance of its functions each financial year.
- (2) The report must be given as soon as practicable after the end of the financial year, but within 4 months after the year ends.
- (3) Without limiting subsection (1), the report must include—
  - (a) a copy of any Ministerial directions given during the year; and
  - (b) information about compliance by the authority with timeframes that this Act requires the authority to comply with; and
  - (c) information about any development schemes made during the year and how long it took to make them; and

- (d) any other matter prescribed under a regulation.
- (4) To remove any doubt, it is declared that this section does not limit or otherwise affect any obligation the authority has to give a report under the *Financial Accountability Act 2009*.

### **135 Privacy**

- (1) This section applies to a person who—
  - (a) is, or has been, a member or a person employed by the authority; and
  - (b) obtains in the course of, or because of, the performance of a function of the authority, personal or confidential information that is not publicly available.
- (2) The person must not—
  - (a) make a record of the information; or
  - (b) divulge or communicate the information to anyone else, whether directly or indirectly; or
  - (c) use the information to benefit any person.

Maximum penalty—100 penalty units.
- (3) However, subsection (2) does not apply if the record is made, or the information is divulged, communicated or used—
  - (a) for, or as a part of, a function of the authority; or
  - (b) with the consent of the person to whom the information relates; or
  - (c) as required by law.

### **136 Delegations**

- (1) The authority may delegate its functions under this Act to—
  - (a) a member; or
  - (b) the chief executive officer; or
  - (c) the chief executive officer or an appropriately qualified officer of a government entity or local government.

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- (2) However, the authority can not delegate the function of making by-laws or development schemes.
- (3) Also, a delegation under subsection (1)(c) may be made only if the Minister has approved the making of the delegation.
- (4) A member, other than an appointed member, may delegate the member's functions as a member to an appropriately qualified public service officer.
- (5) In this section—  
*functions* includes powers.

## **Part 7                      Miscellaneous provisions**

### **Division 1                      Directions by Governor in Council**

#### **137      Direction to government entity or local government to accept transfer**

- (1) The Governor in Council may give a government entity or local government (the *directed entity*) a written direction to accept the transfer to it of—
  - (a) stated land owned by the authority; or
  - (b) a stated fund the authority has established to ensure the provision of infrastructure relating to stated land owned by the authority.
- (2) However, the direction may be given only if the Governor in Council is satisfied the transfer is reasonably necessary for the purposes of this Act.
- (3) The direction may state conditions on which the transfer must be made.
- (4) The directed entity must do every thing reasonably necessary to comply with the direction.

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- (5) If the directed entity is a local government, on the making of the transfer, the stated land is taken to be land that the local government holds on trust in fee simple to which the Sustainable Planning Act, section 659 applies.

**138 Direction to government entity or local government to provide or maintain infrastructure**

- (1) The Governor in Council may give a written direction to a government entity or local government (the *directed entity*) to provide or maintain stated infrastructure in, or relating to, a stated urban development area.
- (2) However, the direction may be given only if the Governor in Council is satisfied the provision or the maintenance of the infrastructure by the directed entity is necessary for the carrying out of the development scheme for the urban development area.
- (3) The direction may state conditions on which the infrastructure must be provided or maintained.
- (4) The directed entity must comply with the direction.
- (5) Subsection (4) applies despite any other Act or law.

**Division 2 Other miscellaneous provisions**

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

- (1) Subsection (2) applies on the declaration of an urban development area if a government entity, GOC or local government has planning or registration functions for land or development in the area.
- (2) The authority may ask the government entity, GOC or local government to give the authority the documents or information the government entity, GOC or local government has that the authority reasonably needs to perform its functions.

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- (3) The entity must comply with the request within a reasonable period.
- (4) If land ceases to be in an urban development area, the authority must give each entity performing functions mentioned in subsection (1) the documents or information the authority has that the entity needs to perform its functions.
- (5) Documents or information required to be given under this section must be given free of charge.

#### **140 Executive officer must ensure corporation does not commit particular offences**

- (1) The executive officers of a corporation must ensure the corporation complies with the following provisions of this Act (each a *designated provision*)—
  - (a) a provision of this Act the contravention of which constitutes a UDA development offence;
  - (b) section 86;
  - (c) section 90.

*Editor's note—*

sections 86 (Offence to contravene enforcement order) and 90 (Offence to contravene Magistrates Court order)

- (2) If a corporation commits an offence against a designated provision each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

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

- (3) Evidence that the corporation has been convicted of an offence against a designated provision is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove that—



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- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
  - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) In this section—

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

#### **141 Giving authority a false or misleading document**

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

Maximum penalty—1665 penalty units.

- (2) A complaint against a person for an offence against subsection (1) is sufficient if it states that the document was false or misleading to the person's knowledge, without specifying whether it was false or whether it was misleading.

#### **142 Evidentiary aids**

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

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

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- (e) that on a stated day—
  - (i) a stated person was given a stated decision, direction or notice under this Act; or
  - (ii) a stated direction or requirement under this Act was made of a stated person;
- (f) that on a stated day, or during a stated period, a UDA development approval was, or was not, in force.

### **143 Application of provisions**

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

### **144 Review of Act**

- (1) The Minister must, within 5 years after this section commences, carry out a review of the operation and effectiveness of this Act.
- (2) In carrying out the review, the Minister must have regard to—
  - (a) the effectiveness of the authority's operations; and
  - (b) the need to continue its functions.
- (3) The Minister must, as soon as practicable after the review is finished, cause a report of the outcome of the review to be laid before the Legislative Assembly.

**145 Approved forms**

The authority may approve forms for use under this Act.

**146 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
  - (a) provide for any matter for which by-laws may be made;  
or
  - (b) impose a penalty of no more than 20 penalty units for contravention of a regulation.

## **Part 8 Transitional provisions**

### **Division 1 Transitional provision for Sustainable Planning Act 2009**

**147 Application of s 13**

Section 13 as in force immediately before the commencement of this section continues to apply to a development application made under the repealed *Integrated Planning Act 1997* but not decided before the commencement.

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**Division 2**                      **Transitional provision for Building  
and Other Legislation Amendment  
Act 2010**

**148**    **Application of s 80**

Section 80, as inserted under the *Building and Other Legislation Amendment Act 2010*, applies to a plan of subdivision under that section given to the authority on or after 18 December 2009.

*Note—*

The *Sustainable Planning Act 2009* commenced on 18 December 2009.

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# Schedule Dictionary

## section 5

***affected owner***, for an urban development area, means a person who owns land in, or that adjoins, the area.

***appointed member*** see section 105(1).

***appropriately qualified***, in relation to a delegated function or power, includes having the qualifications, experience or standing to perform the function or exercise the power.

*Example of standing—*

a person's classification level in the public service

***approved form*** means a form approved by the authority under section 145.

***authority*** means the Urban Land Development Authority established under section 93.

***building work*** see the Sustainable Planning Act, section 10.

***by-laws*** means by-laws made under section 104.

***call in notice*** see section 63(1).

***chairperson*** means the chairperson of the authority.

***chief executive officer*** means the chief executive officer of the authority, appointed under section 120(1).

***community infrastructure designation*** means a designation under the Sustainable Planning Act, section 200.

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

***decision notice***, for a UDA development application, see section 59(1).

***declaration regulation*** see section 7(1).

***development*** see section 6(1).

**development scheme**, for an urban development area, or part of an urban development area, is the development scheme for the area made under section 22, as amended from time to time under part 3, division 2.

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

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

**information request** see section 53(1).

**infrastructure** see the Sustainable Planning Act, schedule 3.

**interim land use plan**, for an urban development area, means the interim land use plan for the area, made under section 8 or 9.

**land use plan**—

- 1 The *land use plan* for an urban development area is the land use plan included in the development scheme for the area.
- 2 The term does not include any interim land use plan in force for the area.

**lawful use**, of premises, includes—

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

**lot** see the Sustainable Planning Act, section 10.

**material change of use** see the Sustainable Planning Act, section 10.

**member** see section 105(1).

**Ministerial direction** see section 130(1)(a).

**nominated assessing authority** for—

- (a) a UDA development condition, means the entity so nominated under section 58(a); or
- (b) a provision about a UDA development approval, means a nominated assessing authority for a UDA development condition of the approval.

**notice** means a notice in writing.

**operational work** see the Sustainable Planning Act, section 10.

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

**Planning and Environment Court** means the Planning and Environment Court under the Sustainable Planning Act.

**planning instrument** means a planning instrument under the Sustainable Planning Act.

**planning scheme** see the Sustainable Planning Act, section 79.

**premises** means—

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

**reconfiguring a lot** see the Sustainable Planning Act, section 10.

**register** means a register the authority keeps under section 132.

**relevant development**, for a provision of this Act about a UDA development application or an SPA development approval or UDA development approval, means the

development, or proposed development, the subject of the application or approval.

**relevant land** for—

- (a) a UDA development application, means the land the subject of the application; or
- (b) a UDA development approval or an SPA development approval, means the land the subject of the approval.

**relevant local government**, for an urban development area, land or a UDA development application, means each local government in whose area the urban development area, the land or the land the subject of the application is located.

**relevant urban development area**, for a provision of this Act about a development scheme, UDA development application or UDA development approval, means the urban development area to which the development scheme, application or approval relates.

**road** means—

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

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

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

**special rate or charge** means a special rate or charge levied under section 101.



**State interest** includes—

- (a) an interest relating to the purposes of this Act; or
- (b) an interest that, in the Minister's opinion, affects an economic or environmental interest of the State or a region.

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

**submission** means a written submission.

**submission period** for—

- (a) a proposed development scheme—see section 25(1)(b)(ii); or
- (b) a UDA development application—see section 54(4)(d).

**submitted scheme** see section 29(1).

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

**UDA assessable development** see section 6(2).

**UDA development application** means an application for a UDA development approval.

**UDA development approval**—

- 1 A *UDA development approval* is an approval of an application for a UDA development approval contained in a decision notice for the application, that is still in force, and as amended from time to time under section 75.
- 2 A reference to a UDA development approval includes a reference to any UDA development condition stated in the approval.

**UDA development condition** see section 55(4)(b).

**UDA development offence** means an offence against part 4, division 1.

**UDA exempt development** see section 6(4).

**UDA self-assessable development** see section 6(3).

***urban development area*** means an area declared under section 7, as the area is amended from time to time.

***urban purposes*** means purposes for which land is used in cities or towns, including residential, industrial, sporting, recreation and commercial purposes.

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

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

- (a) building work; or
- (b) operational work; or
- (c) plumbing work or drainage work as defined under the *Plumbing and Drainage Act 2002*, schedule.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2010. Future amendments of the Urban Land Development Authority Act 2007 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	21 September 2007	certain provisions commenced
1A	none	23 November 2007	certain provisions commenced
1B	none	18 July 2008	ss 183–184, 188 commenced
1C	2009 Act No. 9	1 July 2009	
1D	2009 Act No. 25	2 November 2009	
1E	2009 Act No. 36	18 December 2009	
1F	2010 Act No. 19	23 May 2010	
	2010 Act No. 21		
1G	2009 Act No. 17 2010 Act No. 23	1 July 2010	R1G withdrawn, see R2
2	—	1 July 2010	

## 5 List of legislation

### **Urban Land Development Authority Act 2007 No. 41**

date of assent 11 September 2007

ss 1–2 commenced on date of assent

ss 183–184, 188 commenced 18 July 2008 (2008 SL No. 228)

ss 197, 203 (to the extent it ins the Integrated Planning Act 1997 s 5.3.2(2) from '(2)' to 'area.'), 225(2), (4) commenced 23 November 2007 (2007 SL No. 279)

remaining provisions commenced 21 September 2007 (2007 SL No. 235)

amending legislation—

### **Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

### **Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1**

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)

**Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

**Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2**

date of assent 22 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 2009 (2009 SL No. 281)

**Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 2 pt 29**

date of assent 23 May 2010

commenced on date of assent

**Building and Other Legislation Amendment Act 2010 No. 21 pts 1, 5**

date of assent 23 May 2010

commenced on date of assent

**City of Brisbane Act 2010 No. 23 ss 1–2(1), 352 sch 1**

date of assent 17 June 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (see s 2(1))

## 6 List of annotations

**Development and its types**

s 6 amd 2009 No. 36 s 872 sch 2

**PART 2—URBAN DEVELOPMENT AREAS****Revocation or reduction of urban development area**

s 11 amd 2009 No. 36 s 872 sch 2

**Interim local laws**

s 12 amd 2009 No. 17 s 331 sch 1

**Division 2—Relationship with Sustainable Planning Act**

div hdg amd 2009 No. 36 s 872 sch 2

**Existing SPA development applications**

prov hdg amd 2009 No. 36 s 872 sch 2

s 13 amd 2009 No. 36 s 872 sch 2

**Existing SPA development approvals**

prov hdg amd 2009 No. 36 s 872 sch 2

s 14 amd 2009 No. 36 s 872 sch 2

**Special provision for Northshore Hamilton urban development area**

s 14A ins 2010 No. 19 s 160

**Community infrastructure designations**

s 15 amd 2009 No. 36 s 872 sch 2

**Conversion of UDA development approval to SPA development approval**

**prov hdg** amd 2009 No. 36 s 872 sch 2

**s 16** amd 2009 No. 36 s 872 sch 2

**Outstanding UDA development applications**

**s 17** amd 2009 No. 36 s 872 sch 2

**Provisions for converted SPA development approval**

**prov hdg** amd 2009 No. 36 s 872 sch 2

**s 18** amd 2009 No. 36 s 872 sch 2

**Lawful uses in urban development area**

**s 19** amd 2009 No. 36 s 872 sch 2

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

**prov hdg** amd 2009 No. 17 s 331 sch 1; 2010 No. 23 s 352 sch 1

**s 20** amd 2009 No. 17 s 331 sch 1; 2010 No. 23 s 352 sch 1

**Content of development scheme**

**s 23** amd 2009 No. 36 s 872 sch 2

**Development scheme prevails over particular instruments**

**s 40** amd 2009 No. 36 s 872 sch 2

**Exemption for particular SPA development approvals and community infrastructure designations**

**prov hdg** amd 2009 No. 36 s 872 sch 2

**s 46** amd 2009 No. 36 s 872 sch 2

**Amendment of development scheme does not affect existing SPA or UDA development approval**

**prov hdg** amd 2009 No. 36 s 872 sch 2

**s 49** amd 2009 No. 36 s 872 sch 2

**Restrictions on granting approval**

**s 56** amd 2009 No. 36 s 872 sch 2

sub 2010 No. 21 s 27

**Matters to be considered in making decision**

**s 57** amd 2009 No. 36 s 872 sch 2

**Right of appeal against particular conditions**

**s 61** amd 2009 No. 36 s 872 sch 2

**Provision for enforcement of UDA development conditions**

**s 73** amd 2009 No. 36 s 872 sch 2

**Plans of subdivision**

**s 80** amd 2009 No. 36 s 872 sch 2

sub 2010 No. 21 s 28

**Powers about enforcement orders**

**s 85** amd 2009 No. 36 s 872 sch 2

**Offence to contravene enforcement order**

s 86 amd 2009 No. 36 s 872 sch 2

**Application of other Acts**

s 95 amd 2009 No. 9 s 136 sch 1

**General powers**

s 97 amd 2009 No. 36 s 872 sch 2

**Special rates or charges**

s 101 amd 2009 No. 17 s 331 sch 1

**Application of local government entry powers for authority's functions or powers**

s 103 amd 2009 No. 17 s 331 sch 1

**Members**

s 105 amd 2009 No. 9 s 136 sch 1; 2009 No. 25 s 83 sch

**Chief executive officer**

s 120 amd 2009 No. 25 s 83 sch

**Other staff**

s 122 amd 2009 No. 25 s 83 sch

**Giving information about roads to relevant local government**

s 129 amd 2009 No. 17 s 331 sch 1

**Annual report**

s 134 amd 2009 No. 9 s 136 sch 1

**Direction to government entity or local government to accept transfer**

s 137 amd 2009 No. 36 s 872 sch 2

**PART 7A—AMENDMENT OF BODY CORPORATE AND COMMUNITY MANAGEMENT ACT 1997**

pt 7A (ss 146A–146N) om R1 (see RA ss 7(1)(k) and 40)

**PART 8—TRANSITIONAL PROVISIONS**

pt hdg prev pt 8 hdg om R1B (see RA s 7(1)(k))

pres pt 8 hdg ins 2009 No. 36 s 872 sch 2

sub 2010 No. 21 s 29

**Division 1—Transitional provision for Sustainable Planning Act 2009**

div hdg ins 2010 No. 21 s 29

**Application of s 13**

s 147 prev s 147 om R1 (see RA s 40)

pres s 147 ins 2009 No. 36 s 872 sch 2

**Division 2—Transitional provision for Building and Other Legislation Amendment Act 2010**

div hdg ins 2010 No. 21 s 30

Endnotes

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**Application of s 80**

s 148 prev s 148 om R1 (see RA s 40)  
pres s 148 ins 2010 No. 21 s 30

ss 149–229 amd R1, R1A (see RA s 40)  
om R1B (see RA s 40)

**PART 9—AMENDMENT OF LAND ACT 1994**

pt 9 (ss 230–236) om R1 (see RA ss 7(1)(k) and 40)

**PART 10—AMENDMENT OF LAND TITLE ACT 1994**

pt 10 (ss 237–241) om R1 (see RA ss 7(1)(k) and 40)

**PART 11—AMENDMENT OF NUCLEAR FACILITIES PROHIBITION ACT 2007**

pt 11 (ss 242–243) om R1 (see RA ss 7(1)(k) and 40)

**PART 12—AMENDMENT OF PUBLIC SERVICE ACT 1996**

pt 12 (ss 244–245) om R1 (see RA ss 7(1)(k) and 40)

**PART 13—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994**

pt 13 (ss 246–248) om R1 (see RA ss 7(1)(k) and 40)

**PART 14—AMENDMENT OF VEGETATION MANAGEMENT ACT 1999**

pt 14 (ss 249–250) om R1 (see RA ss 7(1)(k) and 40)

**SCHEDULE—DICTIONARY**

- def “**building work**” amd 2009 No. 36 s 872 sch 2
- def “**community infrastructure designation**” amd 2009 No. 36 s 872 sch 2
- def “**government entity**” amd 2009 No. 25 s 83 sch
- def “**infrastructure**” amd 2009 No. 36 s 872 sch 2
- def “**Integrated Planning Act**” om 2009 No. 36 s 872 sch 2
- def “**IPA development application**” om 2009 No. 36 s 872 sch 2
- def “**IPA development approval**” om 2009 No. 36 s 872 sch 2
- def “**lawful use**” amd 2009 No. 36 s 872 sch 2
- def “**lot**” amd 2009 No. 36 s 872 sch 2
- def “**material change of use**” amd 2009 No. 36 s 872 sch 2
- def “**operational work**” amd 2009 No. 36 s 872 sch 2
- def “**Planning and Environment Court**” amd 2009 No. 36 s 872 sch 2
- def “**planning instrument**” amd 2009 No. 36 s 872 sch 2
- def “**planning scheme**” sub 2009 No. 36 s 872 sch 2
- def “**reconfiguring a lot**” amd 2009 No. 36 s 872 sch 2
- def “**relevant development**” amd 2009 No. 36 s 872 sch 2
- def “**relevant land**” amd 2009 No. 36 s 872 sch 2
- def “**SPA development application**” ins 2009 No. 36 s 872 sch 2
- def “**SPA development approval**” ins 2009 No. 36 s 872 sch 2
- def “**Sustainable Planning Act**” ins 2009 No. 36 s 872 sch 2