



ANNO TRICESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 18 of 1981

**An Act to amend the State Development and Public Works
Organization Act 1971–1979 in certain particulars**

[ASSENTED TO 24TH APRIL, 1981]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *State Development and Public Works Organization Act Amendment Act 1981*.

(2) In this Act the *State Development and Public Works Organization Act 1971–1979* is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *State Development and Public Works Organization Act 1971–1981*.

2. Amendment of s. 3. Arrangement of Act. Section 3 of the Principal Act is amended by—

(a) omitting the expression “Division III—Secretary, Regional Co-ordinators, Officers and Workmen of Co-ordinator-General;” and substituting the expression “Division III—Director (Administration and Finance), Officers and Workmen of Co-ordinator-General;”;

(b) inserting after the expression “PART IV—ENVIRONMENTAL CO-ORDINATION (s. 29);” the following expressions:—

“PART V—PRESCRIBED DEVELOPMENT (ss. 30–47D);

Division I—Declaration of Prescribed Development;

Division II—Infrastructure Co-ordination Plans;

Division III—Applications Relating to Prescribed Development;

Division IV—Information Concerning Development;”;

(c) omitting the expression “121” and substituting the expression “122”.

3. Amendment of s. 5. Meaning of terms. Section 5 of the Principal Act is amended by—

(a) inserting before the definition “approved development scheme” the following definition:—

““application” means, in Part V, an application for approval to rezoning of land or for consent to use land or use or erect any building or other structure for any purpose so as to establish the legal right to use land for a prescribed development;”;

(b) inserting after the definition “approved development scheme” the following definition:—

““approved plan” means an Infrastructure Co-ordination Plan approved by the Governor in Council;”;

(c) inserting after the definition “foreshore” the following definitions:—

““infrastructure” means those facilities, services and utilities that, in the opinion of the Co-ordinator-General, are required by or associated with a development or works and includes training schemes relevant to, and accommodation required for a work force related to a development or works and facilities, services and utilities required by or associated with such training schemes or accommodation;

“Infrastructure Co-ordination Plan” means a plan identifying the infrastructure requirements in respect of a prescribed development;”;

(d) inserting after the definition “Minister” the following definition:—

““prescribed development” means a proposed development, processing or handling of major economic significance to the State declared by the Governor in Council to be a prescribed development;”.

4. New Part V. The Principal Act is amended by inserting after section 29 the following heading and sections:—

“PART V—PRESCRIBED DEVELOPMENT

Division I—Declaration of Prescribed Development

30. Investigation of developments of State significance. If it appears to the Governor in Council in respect of a proposal for the development of the mineral or energy resources of the State or a proposal for the processing or handling of such resources that—

- (a) such development, processing or handling will be of major economic significance to the State; or
- (b) the provision of infrastructure for or in relation to such development, processing or handling—
 - (i) would place an excessive financial burden on the resources of the State or on the residents of the State or of any part thereof; or
 - (ii) would significantly affect the priorities as existing at the material time for the provision of services and facilities by the Crown or any local body,

he may, on the recommendation of the Minister, approve that an investigation of the proposal be undertaken by the Co-ordinator-General with a view to establishing whether the proposed development, processing or handling should be declared to be a prescribed development.

31. Effect of investigation on local bodies. Upon the Co-ordinator-General notifying a local body that he has commenced to undertake an investigation of any proposal pursuant to the Governor in Council’s approval under section 30—

- (a) the jurisdiction of the local body to deal with any application that has been made or is subsequently made to it and relates to that proposal shall be suspended until it is further notified by the Co-ordinator-General that its jurisdiction in respect of such application is restored in accordance with this Part, the provision of any law to the contrary notwithstanding; and
- (b) where the local body would but for this section be required to decide within a limited time the matter of any application in respect of which its jurisdiction is suspended by paragraph (a), time shall be taken not to have commenced to run against the local body in relation to such application until its jurisdiction in respect of such application is duly restored.

32. Declaration of prescribed developments. (1) The Co-ordinator-General shall submit the findings of an investigation undertaken by him under this Part to the Minister.

(2) The Governor in Council may on the recommendation of the Minister, by Order in Council, declare the proposed development, processing or handling, the subject of the Co-ordinator-General's investigation, to be a prescribed development or may refuse to so declare.

(3) The Governor in Council may on the recommendation of the Minister, by Order in Council, revoke a declaration of a prescribed development, if it appears to him to be expedient to do so, whereupon the proposed development, processing or handling to which the declaration related shall cease to be a prescribed development and every application referred to the Co-ordinator-General under section 42 shall be remitted by him to the local body from which it was referred to be dealt with by that local body according to law.

33. Notification of decision. (1) The Co-ordinator-General shall, in writing, notify that decision to all local bodies and other persons who in his opinion are materially concerned with a decision of the Governor in Council under section 32.

(2) Where—

(a) the Governor in Council has refused to declare a proposed development, processing or handling to be a prescribed development; and

(b) the jurisdiction of a local body in respect of any application relating to such proposed development, processing or handling is for the time being suspended pursuant to section 31,

the Co-ordinator-General shall, by his notification given to that local body under subsection (1), notify that local body that such jurisdiction is thereby restored to it.

Division II—Infrastructure Co-ordination Plans

34. Preparation of plans. (1) In respect of each prescribed development the Co-ordinator-General shall prepare an Infrastructure Co-ordination Plan.

(2) A plan required by subsection (1)—

(a) shall be prepared in such form and shall contain such matters as the Co-ordinator-General thinks appropriate;

(b) shall be prepared in consultation with the appropriate officers of Queensland Treasury and with local bodies that in the Co-ordinator-General's opinion are concerned with the prescribed development and with such other bodies and persons as he thinks fit;

(c) may identify means for financing and co-ordinating the provision of infrastructure for the prescribed development; and

- (d) may include infrastructure requirements that are submitted to the Co-ordinator-General by a local body or other body or person for inclusion therein or that are included therein by the Co-ordinator-General of his own motion in addition to or in lieu of infrastructure requirements so submitted.

35. Approval of Infrastructure Co-ordination Plan. (1) Every plan prepared under section 34 shall, after consideration by the Treasurer, be submitted to the Minister who, if he approves thereof, shall submit the plan to the Governor in Council.

(2) The Governor in Council may, on the recommendation of the Minister, approve of the plan and thereupon every local body and other person specified in the approved plan shall comply with the requirements of the plan (so far as those requirements are the concern of that local body or other person) in respect of the prescribed development to which the plan relates.

(3) A local body or other person may be specified in an approved plan by name or by reason that it or he is one of a class or description of person specified in the plan.

36. Variation of approved plan. (1) The Co-ordinator-General may prepare in consultation with the appropriate officers of Queensland Treasury variations of an approved plan but every such variation shall, after consideration by the Treasurer, be submitted to the Minister and to the Governor in Council for his approval.

(2) Upon the Governor in Council approving a variation of an approved plan the plan as so varied shall become and be the approved plan in respect of the prescribed development concerned.

37. Effect of approved plan. Where pursuant to any Act an approval is given or a grant is made for the purpose of doing anything that then is or subsequently becomes related to a prescribed development and the person to whom or for whose benefit such approval is given or such grant is made then is or subsequently becomes a person specified in an approved plan relating to that prescribed development such approval or grant shall be deemed to contain and be subject to a condition that such person shall comply in all respects with the requirements of the approved plan (so far as those requirements are the concern of that person) and every instrument conferring title to or rights in land made to give effect to such approval or grant shall be deemed to contain and be subject to the like condition.

38. Local Bodies may make and perform agreements, etc. (1) For the purpose of financing and providing infrastructure for a prescribed development in accordance with an approved plan a local body may, in addition to all other powers had by it, negotiate, enter into and perform such agreements and do all other acts and things as are necessary to enable it to comply with the requirements of that plan.

(2) The provisions of any other Act that—

- (a) restrict the power of a local body to negotiate, enter into or perform agreements; or
- (b) make unlawful the doing by local bodies of acts therein specified in connexion with rezoning of land, use of land or the approval, consent or permission to use land or to use or erect any building or other structure,

shall not be construed to affect the power conferred on local bodies by subsection (1).

(3) An agreement negotiated for the purpose referred to in subsection (1) whether by a local body or any other person—

- (a) shall conform to the requirements of the approved plan for the purposes of which it is negotiated so far as those requirements concern the subject matter of the agreement; and
- (b) shall not be entered into and, if entered into in breach of this provision, shall be of no effect in law unless it has been approved by the Governor in Council.

39. Agreements to be furnished to Co-ordinator-General. (1) Every local body or other person that negotiates an agreement for the purpose of financing and providing infrastructure for a prescribed development in accordance with an approved plan shall furnish a copy of the proposed agreement to the Co-ordinator-General who shall examine the terms thereof in consultation with the appropriate officers of Queensland Treasury and with such local bodies or other persons as he thinks fit.

(2) If pursuant to subsection (1) two or more persons are required to furnish a copy of an agreement it shall be sufficient compliance with that subsection if one of such persons furnishes the copy as prescribed.

(3) If in the opinion of the Co-ordinator-General a proposed agreement furnished to him under subsection (1) is deficient in any respect he shall refer the matter to the local body or other person that furnished the proposed agreement to him with a view to its alteration in a manner acceptable to the Co-ordinator-General.

(4) When, in the opinion of the Co-ordinator-General, a proposed agreement furnished to him under subsection (1) is satisfactory he shall after consideration of the agreement by the Treasurer submit the matter of the agreement to the Minister with his recommendation that the proposed agreement should be approved.

40. Approval of agreements. (1) The Governor in Council may, on the recommendation of the Minister, approve of a proposed agreement referred to in section 38 and furnished to the Co-ordinator-General under section 39.

(2) Upon the Governor in Council approving a proposed agreement the Co-ordinator-General shall cause notification of such approval to be given to the local body or other person that furnished a copy of the proposed agreement to him.

(3) Where the Governor in Council has approved an agreement with respect to any subject-matter proposed to be entered into for the purposes of a prescribed development any agreement made with respect to the same subject-matter, or so as to include the same subject-matter, for the purposes of the same development shall be on the same terms and conditions, so far as they relate to that subject-matter, as have been so approved.

If in any case this subsection is not complied with the agreement made shall be of no effect in law.

41. Variation of approved agreement. (1) If at any time it becomes necessary or desirable to vary an agreement made in accordance with section 40 the local body or other person being party to that agreement may negotiate and enter into a variation agreement but every such variation agreement negotiated shall be submitted and dealt with as prescribed by section 39 and that section and section 40 shall apply in relation to such variation agreement.

(2) Upon the Governor in Council approving of a proposed variation agreement and such agreement being entered into, the original agreement as so varied shall become and be the approved agreement with respect to the subject-matter concerned.

Division III—Applications Relating to Prescribed Development

42. Referral of applications. (1) Where a proposed development, processing or handling has been declared to be a prescribed development every application relating to the proposed development, processing or handling that—

- (a) has been made to a local body at the time such declaration is made; or
- (b) at any time after the making of such declaration is made to a local body,

shall be referred by the local body to the Co-ordinator-General and the local body shall have no jurisdiction to deal with any such application otherwise than is prescribed by this Division unless it is remitted by the Co-ordinator-General to the local body as hereinafter prescribed.

(2) Reference by a local body to the Co-ordinator-General of an application shall be made—

- (a) in the case of an application that has been made to the local body at the time the relevant proposed development is declared to be a prescribed development, forthwith upon the local body being notified under section 33 of the declaration; and
- (b) in the case of an application that is made at any time after the relevant proposed development is declared to be a prescribed development, as soon as is practicable after the application is received by the local body.

(3) An application required by law to be made to a local body shall be made to that local body notwithstanding that it relates to a prescribed development.

43. Remission of applications. (1) In respect of every application referred to the Co-ordinator-General that relates to a prescribed development the Governor in Council shall, on the recommendation of the Minister, determine whether the application referred should remain with the Co-ordinator-General or be remitted to the local body to which it was made.

(2) If, pursuant to the determination of the Governor in Council, an application is remitted to the local body to which it was made, it shall be dealt with by that body according to law as if the proposed development to which it relates had not been declared to be a prescribed development but subject to the local body and all other persons concerned complying with the approved plan relating to that development.

44. Applications remaining with Co-ordinator-General. (1) If pursuant to a determination of the Governor in Council under section 43 (1) an application is to remain with the Co-ordinator-General, the law under which the application was made to the local body shall be construed in relation to that application as if a reference therein to the local body were a reference to the Co-ordinator-General.

(2) For the purpose of dealing with and determining an application that pursuant to the determination of the Governor in Council is to remain with the Co-ordinator-General the provisions of law and the constraints that would have affected the dealing with and determination of the application by the local body shall be deemed not to exist.

(3) The Co-ordinator-General shall deal with an application that pursuant to the determination of the Governor in Council is to remain with him in accordance with this Act and he shall submit the matter of the application, his recommendations with respect thereto and any submissions received by him with respect thereto to the Minister.

45. Advertisement calling for submissions. (1) In respect of an application relating to a prescribed development that is not remitted to a local body—

(a) the Co-ordinator-General shall by advertisement in some newspaper or newspapers circulating throughout the area or areas of the State for which the development is proposed give public notice—

(i) that the application is before him;

(ii) that a copy of the application is available for public inspection at the address or addresses specified in the advertisement; and

(iii) that submissions with respect to the application including objections thereto may be lodged with the Co-ordinator-General at the address and on or before the date specified in that behalf in the advertisement,

and shall therein give particulars sufficient in his opinion to indicate the general nature of the application;

(b) the Co-ordinator-General shall invite the local body to which the application was made to lodge with him on or before the date specified in the advertisement its representations with respect to the application together with its comments on the circumstances and matters that have influenced its representations.

(2) The Co-ordinator-General shall cause to be kept available for public inspection a copy of an application to which an advertisement under subsection (1) relates at the address or addresses specified for that purpose in the advertisement at all times when that address is or those addresses are open for the conduct of public business.

(3) Every submission to the Co-ordinator-General with respect to an application relating to a prescribed development shall be in writing, shall state the grounds on which it is made and shall particularize the circumstances and matters relied on in support of those grounds.

46. Determination of application. (1) The Governor in Council, having due regard to the application, any submissions made with respect thereto and any other matters submitted to the Minister by the Co-ordinator-General, shall, by Order in Council, determine whether he—

- (a) approves the application unconditionally;
- (b) approves the application subject to conditions; or
- (c) refuses the application.

(2) If the Governor in Council approves an application subject to conditions he shall at the same time determine and specify what those conditions are.

47. Effect of determination. (1) The determination by the Governor in Council of an application relating to a prescribed development—

- (a) shall be final and binding on the applicant, the local body to whom it was made, and all other persons concerned, notwithstanding the provisions of any other law applicable in relation to that application; and
- (b) where he approves of that application, shall have effect in law according to its tenor to the intent that the use of land approved by the determination may be undertaken and carried out thereon without challenge or hindrance by a local body or any other person on the ground that such use is contrary to any town planning scheme or any by-law or ordinance relating to the use or development of land.

(2) Where an application made to a local body under any law is determined by the Governor in Council under this Act as an application relating to a prescribed development—

- (a) the local body and any other person charged with keeping the appropriate maps shall cause the effect of the determination to be noted on any town planning scheme maps (whether coming into force before or after the making of the determination) for the Local Authority Area or part of such Area in which is situated the land to which the determination relates;
- (b) the local body is hereby authorized to take all steps that appear to it to be necessary to secure compliance with the determination, including taking proceedings before a court of competent jurisdiction; and
- (c) for the purpose of the local body exercising its authority under paragraph (b), the determination shall be deemed to be a decision of the local body lawfully made in relation to the application pursuant to the law under which the application was made to the local body.

47A. Effect of reference on time limitations. Where an application has been referred to the Co-ordinator-General under section 42—

- (a) the Governor in Council is not bound by any provision of law that limits the time within which a determination of the application would be required to be made had the application remained with a local body; and
- (b) for the purpose of any provision of law such as is referred to in paragraph (a) time shall be taken not to have commenced to run against the local body concerned in relation to the application until the application has been remitted by the Co-ordinator-General to the local body to be dealt with by it.

47B. Prescribed development to await approval. Where it is determined that an application referred to the Co-ordinator-General under section 42 should remain with the Co-ordinator-General, neither the applicant nor any other person shall perform any work or carry out any undertaking as part of the development, processing or handling to which the application relates unless—

- (a) the application has been approved by the Governor in Council and the approval remains in force; and
- (b) if the approval of the application by the Governor in Council is subject to conditions, the work is performed or the undertaking is carried out in accordance in all respects with those conditions.

47C. Withdrawal of applications. An application relating to a prescribed development may be withdrawn at any time prior to its determination by the Governor in Council by notice in writing to that effect signed by the applicant and served on the Co-ordinator-General.

Division IV—Information Concerning Development

47D. Co-ordinator-General may obtain information. (1) With a view to discharging his functions under this Part the Co-ordinator-General may require any local body or other person to furnish to him—

- (a) particulars of all works and undertakings proposed to be carried out by or on behalf of or under the authority or supervision of that body or person in connexion with any proposed development, processing or handling; and
- (b) such information as in his opinion would assist him in the proper discharge of his functions.

(2) Particulars and information furnished to the Co-ordinator-General pursuant to his requisition shall be verified in a manner directed by him, including (should he so direct) by way of statutory declaration.

(3) This section shall be construed to apply—

- (a) except where the Minister directs to the contrary in a particular case, proof whereof shall lie upon him who alleges such direction to the contrary; and
- (b) subject to the provisions of any Act that expressly requires a person employed for the purposes of that Act to preserve and aid in preserving secrecy with respect to all matters that may come to his knowledge in his official capacity.”.

5. Amendment of s. 102. Power to contract. Section 102 of the Principal Act is amended by, in subsection (2), omitting the words “secretary to the Co-ordinator-General”, where they twice occur, and substituting in each case the words “Director (Administration and Finance)”.

6. Amendment of s. 116. Offences. Section 116 of the Principal Act is amended by, in subsection (1), inserting after the words “provision of this Act” the words “or fails to comply with a requisition made by the Co-ordinator-General under this Act and directed to him”.

7. New s. 122. The Principal Act is amended by adding at the end thereof the following section:—

“**122. Annual Report.** (1) The Co-ordinator-General shall as soon as is practicable after 30 June in each year prepare and furnish to the Minister a report on the operations of the department under the direction of the Co-ordinator-General during the period of twelve months ended on 30 June last past.

(2) The Minister shall lay the report of the Co-ordinator-General before the Legislative Assembly within 14 sitting days from the day on which he receives the report.

(3) In this section the expression "sitting days" means days on which the Legislative Assembly sits for the dispatch of business."