



Queensland

State Development and Public Works Organisation and Other Legislation Amendment Act 2005

Act No. 57 of 2005



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Queensland

State Development and Public Works Organisation and Other Legislation Amendment Act 2005

Act No. 57 of 2005

***An Act to amend the *State Development and Public Works
Organisation Act 1971*, and for other purposes***

[Assented to 28 November 2005]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *State Development and Public Works Organisation and Other Legislation Amendment Act 2005*.

Part 2 Amendment of Petroleum and Gas (Production and Safety) Act 2004

2 Act amended in pt 2

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

3 Amendment of s 20 (What are the *conditions* of a petroleum authority)

Section 20(2), after ‘authority.’—

insert—

‘*Note—*

If a Coordinator-General’s condition applies to a petroleum lease, pipeline licence or petroleum facility licence, or proposed petroleum lease, pipeline licence or petroleum facility licence, for a significant project, and the condition conflicts with a mandatory condition for that type of petroleum authority, the Coordinator-General’s condition prevails to the extent of the inconsistency. See sections 123A, 412A and 447A.’.

4 Amendment of s 120 (Right to grant if requirements for grant met)

Section 120(1), ‘section 122’—

omit, insert—

‘sections 122 and 123A’.

5 Amendment of s 123 (Provisions of petroleum lease)

Section 123—

insert—

‘(9) This section applies subject to section 123A.’.

6 Insertion of new s 123A

After section 123—

insert—

‘123A Provisions about grant and conditions of petroleum lease for significant project

- ‘(1) This section applies if a petroleum lease or proposed petroleum lease is for a significant project.
- ‘(2) The Minister must not grant the lease until the Minister has been given the Coordinator-General’s report for the project.
- ‘(3) Any Coordinator-General’s conditions for the lease must be stated in the lease.
- ‘(4) Any other condition of the lease stated under section 123 must not be inconsistent with the Coordinator-General’s conditions.
- ‘(5) If a mandatory condition for petroleum leases conflicts with any of the Coordinator-General’s conditions, the Coordinator-General’s condition prevails to the extent of the inconsistency.’.

7 Amendment of s 132 (Deciding whether to grant petroleum lease)

Section 132—

insert—

‘(3) This section applies subject to section 123A.¹’.

8 Amendment of s 133 (Provisions of petroleum lease)

Section 133, ‘Section 123 applies’—

omit, insert—

‘Sections 123 and 123A² apply’.

9 Amendment of s 317 (Proposed mining lease declared a significant project)

Section 317(1)(a), from ‘a project is declared’—

omit, insert—

‘a significant project is declared for a proposed coal or oil shale mining lease for the land; and’.

10 Amendment of s 410 (Deciding whether to grant licence)

Section 410(1)(a), ‘section 411’—

omit, insert—

‘sections 411 and 412A’.

11 Amendment of s 412 (Provisions of licence)

Section 412—

insert—

‘(5) This section applies subject to section 412A.’.

1 Section 123A (Provisions about grant and conditions of petroleum lease for significant project)

2 Sections 123 (Provisions of petroleum lease) and 123A (Provisions about grant and conditions of petroleum lease for significant project)

12 Insertion of new s 412A

After section 412—

insert—

‘412A Provisions about grant and conditions of licence for significant project

- ‘(1) This section applies if a pipeline licence or proposed pipeline licence is for a significant project.
- ‘(2) The Minister must not grant the licence until the Minister has been given the Coordinator-General’s report for the project.
- ‘(3) Any Coordinator-General’s conditions for the licence must be stated in the licence.
- ‘(4) Any other condition of the licence stated under section 412 must not be inconsistent with the Coordinator-General’s conditions.
- ‘(5) If a mandatory condition for pipeline licences conflicts with any of the Coordinator-General’s conditions, the Coordinator-General’s condition prevails to the extent of the inconsistency.’.

13 Amendment of s 446 (Deciding whether to grant licence)

Section 446(1)(a), ‘decide to grant’—

omit, insert—

‘subject to section 447A, decide to grant’.

14 Amendment of s 447 (Provisions of licence)

Section 447—

insert—

- ‘(7) This section applies subject to section 447A.’.

15 Insertion of new s 447A

After section 447—

insert—

‘447A Provisions about grant and conditions of licence for significant project

- ‘(1) This section applies if a petroleum facility licence or proposed petroleum facility licence is for a significant project.
- ‘(2) The Minister must not grant the licence until the Minister has been given the Coordinator-General’s report for the project.
- ‘(3) Any Coordinator-General’s conditions for the licence must be stated in the licence.
- ‘(4) Any other condition of the licence stated under section 447 must not be inconsistent with the Coordinator-General’s conditions.
- ‘(5) If a mandatory condition for petroleum facility licences conflicts with any of the Coordinator-General’s conditions, the Coordinator-General’s condition prevails to the extent of the inconsistency.’.

16 Amendment of s 514 (Significant projects excluded from div 1)

Section 514(1), from ‘that is’ to ‘to be’—
omit, insert—
‘for’.

17 Amendment of sch 2 (Dictionary)

Schedule 2—
insert—

‘Coordinator-General’s conditions, for a lease or licence or proposed lease or licence for a significant project, means the conditions for the lease or licence stated in the Coordinator-General’s report for the project.

Coordinator-General’s report, for a significant project, means the Coordinator-General’s report under the *State Development and Public Works Organisation Act 1971* for the EIS for the project.

significant project means a project declared under the *State Development and Public Works Organisation Act 1971*, section 26, to be a significant project.’.

Part 3 Amendment of State Development and Public Works Organisation Act 1971

18 Act amended in pt 3

This part amends the *State Development and Public Works Organisation Act 1971*.

19 Amendment of s 24 (Definitions for pt 4)

- (1) Section 24, definition *EIS*—

omit.

- (2) Section 24—

insert—

‘*Coordinator-General’s change report* see section 35I(1).

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

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

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

- (3) Section 24, definition *properly made submission*, after ‘for an EIS’—

insert—

‘or a proposed change to a project’.

20 Amendment of s 26 (Declaration of significant project)

(1) Section 26(2) to (5)—

renumber as section 26(4) to (7)

(2) Section 26(1)—

omit, insert—

‘(1) The Coordinator-General may—

(a) declare a project to be a significant project for which an EIS is required; or

(b) declare a project to be a significant project for which an EIS is not required.

‘(2) However—

(a) the Coordinator-General may make a declaration under subsection (1)(b) only if satisfied appropriate environmental assessments under another Act will be carried out in relation to the project; and

(b) the Coordinator-General must not make a declaration under subsection (1)(b) if undertaking the project will result in broadscale clearing for agricultural purposes.

‘(3) For subsection (2)(b), a project results in broadscale clearing for agricultural purposes if—

(a) undertaking the project will result in the clearing of vegetation that, other than for the making of the declaration, would involve assessable development mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, items 1A to 1G; and

(b) the Coordinator-General is satisfied the clearing is not for a matter or purpose mentioned in the *Vegetation Management Act 1999*, section 22A(2)(b) to (j).’

(3) Section 26—

insert—

‘(8) If the project involves a lease or licence under a petroleum Act, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering the Act.

‘(9) In this section—

petroleum Act means—

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

21 Insertion of new s 27A

After section 27—

insert—

‘27A Lapsing of declaration

- ‘(1) If an EIS is required for the project, the declaration lapses if the proponent does not comply with section 32(4).³
- ‘(2) If an EIS is not required, the declaration lapses—
 - (a) generally—at the end of the 4 years starting the day the declaration was made; or
 - (b) if the declaration states or implies a time for it to lapse—at the stated or implied time.
- ‘(3) However, if before the lapsing of the declaration under subsection (1) or (2), the Coordinator-General, by written notice to the proponent, fixes a later time for the declaration to lapse, it does not lapse until the later time.’.

22 Amendment of s 28 (Application of divs 3–6)

Section 28, after ‘significant project’—

insert—

‘for which an EIS is required’.

3 Section 32 (Preparation of EIS)

23 Amendment of s 29 (Notice of requirement for EIS and of draft terms of reference)

Section 29—

insert—

- ‘(2) The public notification must state a period within which the comments must be made under subsection (1)(b).⁴’.

24 Replacement of s 30 (Finalising terms of reference)

Section 30—

omit, insert—

‘30 Finalising terms of reference

- ‘(1) The Coordinator-General must, as soon as practicable after the comment period ends, finalise the terms of reference for the EIS and give the proponent a copy.

- ‘(2) In finalising the terms of reference, the Coordinator-General must have regard to comments on the draft terms of reference received by the Coordinator-General within comment period.

- ‘(3) In this section—

comment period means the period stated under section 29(2).’.

25 Amendment of s 32 (Preparation of EIS)

Section 32—

insert—

- ‘(4) Subject to subsection (3), an EIS must be given to the Coordinator-General within—

- (a) 2 years after finalisation under section 30 of the terms of reference for the EIS; or

⁴ See also section 171 (Publication of document or information by Coordinator-General).

- (b) if within the 2 years the Coordinator-General, by written notice to the proponent, fixes a later period for the giving of the EIS—the later period.’.

26 Amendment of s 35 (Coordinator-General evaluates EIS, submissions, other material and prepares report)

- (1) Section 35(4)(b), ‘section 39, 45 or 49’—

omit, insert—

‘section 39, 45, 47C, 49 or 49B’.

- (2) Section 35(4)—

insert—

‘(d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.’.

27 Insertion of new s 35A

Part 4, division 3—

insert—

‘35A Lapsing of Coordinator-General’s report

- ‘(1) The Coordinator-General’s report for the EIS for the project lapses—

(a) generally—at the end of the 4 years starting the day after the report is prepared under section 35(3); or

(b) if the report states or implies a time for it to lapse—at the stated or implied time; or

(c) if, before the end of the 4 years or before the stated or implied time, the proponent applies for an approval for the project, on the latest of the following to happen—

(i) the deciding of the application;

(ii) if the application is refused—

(A) the end of any period to appeal against the refusal; or

- (B) if, within the period, an appeal is made against the refusal, the appeal is finally decided or is otherwise ended.
- ‘(2) However, if before the lapsing of the report under subsection (1), the Coordinator-General, by written notice to the proponent, fixes a later time for the report to lapse, it does not lapse until the later time.
- ‘(3) Also, the report does not lapse if—
- (a) division 8 applies to the project; and
 - (b) there are imposed conditions for the undertaking of the project; and
 - (c) the undertaking of the project substantially starts within 4 years after the report is prepared under section 35(3).’.

28 Insertion of new pt 4, div 3A

Part 4—

insert—

‘Division 3A Changes to project

‘35B Application of div 3A

‘This division applies if, after the Coordinator-General complies with section 35(5), the proponent wishes the Coordinator-General to assess a proposed change to the project or a condition of the project.

‘35C Power to evaluate environmental effects of proposed change

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

‘35D Notice to Coordinator-General

‘The proponent must give the Coordinator-General written notice requesting the evaluation.

‘35E Requirements for notice

‘The notice must—

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

‘35F Coordinator-General may seek comments or information

‘(1) After receiving the notice, the Coordinator-General may—

- (a) refer details of the proposed change, its effects on the project or any other related matter to anyone the Coordinator-General considers may be able to give comments or information to help the making of the evaluation; and
- (b) ask the proponent for further information about the proposed change, its effects on the project or any other related matter.

‘(2) If the proponent does not comply with a request under subsection (1)(b) within a reasonable period after it is made, the Coordinator-General may make the evaluation without the further information.

‘35G Public notice

‘(1) The Coordinator-General may, by written notice, require the proponent to publicly notify the proposed change and its effects on the project, in a way decided by the Coordinator-General.

- ‘(2) Sections 33 and 34⁵ apply to the public notification, and for submissions about the proposed change and its effect on the project, as if a reference in those sections to an EIS was a reference to the proposed change or the effects.

‘35H Criteria for evaluating

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

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

‘35I Coordinator-General’s change report

- ‘(1) The Coordinator-General must prepare a report (a *Coordinator-General’s change report*) that makes the evaluation.
- ‘(2) In making the evaluation, the Coordinator-General may—
- (a) state conditions of a type mentioned in section 39, 45, 47C, 49 or 49B that are relevant to the proposed change, its effects on the project or any other related matter; and
 - (b) make recommendations of a type mentioned in section 43 or 52 that are relevant to the proposed change, its effects on the project or any other related matter; and

5 Sections 33 (Public notification of EIS) and 34 (Making submissions on EIS)

- (c) amend any conditions or recommendations for the project stated or made under section 35(4); and
- (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.

‘35J Distribution of Coordinator-General’s change report

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

- (a) give a copy of it to the proponent; and
- (b) publicly notify the report.⁶

‘35K Relationship with Coordinator-General’s report

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

‘35L Lapsing of Coordinator-General’s change report

‘The Coordinator-General’s change report lapses on the lapsing, under section 35A, of the Coordinator-General’s report for the EIS for the project.’.

29 Amendment of s 39 (Application of Coordinator-General’s report to IDAS)

Section 39(5), ‘statements mentioned in subsections (1) and (2)’—

omit, insert—

‘statement mentioned in subsection (2)(b)’.

⁶ See also section 171 (Publication of document or information by Coordinator-General).

30 Insertion of new s 42A

Part 4, division 4, subdivision 1—

insert—

‘42A Application of Coordinator-General’s change report to IDAS

- ‘(1) This section applies if, under section 35J(a), the proponent is given a Coordinator-General’s change report.
- ‘(2) The change report is taken to be an amended concurrence agency response under the Integrated Planning Act, section 3.3.17(1),⁷ the contents of which the applicant has given written agreement to.
- ‘(3) Subsection (4) applies if the change report was given—
 - (a) after the decision stage of IDAS started for the application; but
 - (b) before the assessment manager has made a decision on the application.
- ‘(4) To remove any doubt, it is declared that the Integrated Planning Act, section 3.5.8⁸ applies for the decision period for the application.
- ‘(5) Subsection (6) applies if—
 - (a) the change report was given after the assessment manager made a decision on the application (the *original application*); and
 - (b) the proposed change the subject of the change report involves development (the *new development*) under the Integrated Planning Act and, because of the new development—
 - (i) a new development application must be made under that Act; or

7 Integrated Planning Act, section 3.3.17 (How a concurrence agency may change its response)

8 Integrated Planning Act, section 3.5.8 (Decision making period (changed circumstances))

- (ii) a change to the decided development approval for the original application, or to the conditions of the approval, must be made.
- ‘(6) The proponent must take, or cause to be taken, the necessary steps under the Integrated Planning Act to obtain a development approval that authorises the new development to be carried out.
- ‘(7) If subsection (6) applies because of subsection (5)(a) and (b)(i), sections 37 to 42 apply to the obtaining of the development approval as if—
 - (a) a reference to the Coordinator-General’s report for the EIS for the project was a reference to the change report; and
 - (b) a reference to a properly made submission about the EIS was a reference to a properly made submission about the proposed change.
- ‘(8) To remove any doubt, it is declared that subsection (5)(b)(ii) and (6) apply even if there is an undecided appeal against the decided development approval for the original application.’.

31 Amendment of s 45 (Application of Coordinator-General’s report to proposed mining lease)

- (1) Section 45(2)(a)—
omit.
- (2) Section 45(2)(b) and (c)—
renumber as section 45(2)(a) and (b).

32 Insertion of new s 47A

Part 4, division 5—
insert—

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

- ‘(1) This section applies if—

- (a) there is any inconsistency between a Coordinator-General's condition under section 45 or 46; and
 - (b) a condition for the granting of the proposed mining lease determined or declared under the *Native Title Act 1993* (Cwlth) section 36A, 38 or 42.⁹
- '(2) The Coordinator-General's condition does not apply to the extent of the inconsistency.'

33 Amendment of pt 4, div 6, hdg (Relationship with Environmental Protection Act, ch 5)

Part 4, division 6, heading, ' , ch 5'—
omit.

34 Insertion of new pt 4, div 6, sdiv 1 and new pt 4, div 6, sdiv 2, hdg

Part 4, division 6, before section 48—
insert—

'Subdivision 1 Relationship for non-code compliant environmental authority (petroleum activities)

'47B Application of sdiv 1

'This subdivision applies if—

- (a) the project involves a proposed environmental authority (petroleum activities) under the Environmental Protection Act; and

⁹ *Native Title Act 1993* (Cwlth), section 36A (Ministerial determination if arbitral body determination delayed), 38 (Kinds of arbitral body determinations) or 42 (Overruling of determinations)

- (b) were the proposed authority to be issued, it would be a non-code compliant authority for chapter 4A of that Act.¹⁰

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

- ‘(1) The Coordinator-General’s report for the EIS for the project may state conditions for the proposed environmental authority.
- ‘(2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the EPA Minister a copy of the report.¹¹’.

‘Subdivision 2 Relationship for environmental authority (mining lease)’.

35 Amendment of s 48 (Application of div 6)

- (1) Section 48, heading, ‘div 6’—
omit, insert—
‘sdiv 2’.
- (2) Section 48, ‘division’—
omit, insert—
‘subdivision’.

36 Amendment of s 49 (Application of Coordinator-General’s report to environmental authority (mining lease))

Section 49(2), from ‘report—’ to ‘Coordinator-General’—

10 See the Environmental Protection Act, section 75(4) (Types of environmental authority (petroleum activities)).

11 See also the Environmental Protection Act, sections 98(5) (Conditions that may and must be imposed) and 114(5) (Conditions that may and must be imposed).

omit, insert—

‘report, the Coordinator-General’.

37 Insertion of new pt 4, div 6A

After section 49—

insert—

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

‘49A Application of div 6A

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

**‘49B Application of Coordinator-General’s report to
lease or licence**

- ‘(1) The Coordinator-General’s report for the EIS for the project may state conditions for the proposed lease or licence.
- ‘(2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the Minister for the time being administering the Act under which the lease or licence is proposed to be granted a copy of the report.¹²

**‘49C Paramountcy of conditions determined or declared
under Native Title Act 1993 (Cwlth)**

- ‘(1) This section applies if—
 - (a) the project involves a proposed petroleum lease; and
 - (b) there is any inconsistency between—

¹² See also the Environmental Protection Act, sections 98(5) (Conditions that may and must be imposed) and 114(5) (Conditions that may and must be imposed).

- (i) a Coordinator-General's condition stated under section 49B; and
 - (ii) a condition for the granting of the proposed petroleum lease determined or declared under the *Native Title Act 1993* (Cwlth) section 36A, 38 or 42.¹³
- ‘(2) The Coordinator-General's condition does not apply to the extent of the inconsistency.’.

38 Amendment of s 50 (Application of div 7)

Section 50, ‘chapter 5, requires’—
insert—
 ‘chapter 4A or 5,¹⁴ requires’.

39 Amendment of s 52 (Application of Coordinator-General's report to other approval process)

- Section 52(3)—
omit, insert—
- ‘(3) If the recommendation is to refuse the approval, the report must give reasons for the recommendation.’.

39A Insertion of new pt 4, div 8

After section 54—
insert—

13 *Native Title Act 1993* (Cwlth), section 36A (Ministerial determination if arbitral body determination delayed), 38 (Kinds of arbitral body determinations) or 42 (Overruling of determinations)

14 Environmental Protection Act, chapter 4A (Environmental authorities for petroleum activities) or 5 (Environmental authorities for mining activities)

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

‘54A Application of div 8

‘This division applies to the extent that—

- (a) the project does not involve a material change of use that, under the Integrated Planning Act, is impact assessable; and
- (b) division 4, subdivision 2 and divisions 5, 6, 6A and 7 do not apply to the project.

‘54B Report may impose conditions

- ‘(1) Subject to section 54C, the Coordinator-General’s report for the EIS for the project may impose conditions for the undertaking of the project, and state when they take effect.
- ‘(2) A condition imposed in the report is an *imposed condition* for the undertaking of the project.
- ‘(3) If there are imposed conditions for the undertaking of the project, the Coordinator-General may, for any imposed condition for the undertaking of the project, nominate an entity that is to have jurisdiction for the condition.¹⁵
- ‘(4) An entity may be nominated for 1 or more of the conditions.
- ‘(5) A nomination under subsection (3) may be in the report or by public notification.¹⁶
- ‘(6) The public notification may be made at any time.
- ‘(7) The Coordinator-General must give a copy of the report to each nominated entity for an imposed condition for the undertaking of the project.

¹⁵ See section 54D (Effect of imposed conditions).

¹⁶ See also section 171 (Publication of document or information by Coordinator-General).

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

‘54C Provision for what conditions may be imposed

‘The Integrated Planning Act, 3.5.30(1) and 3.5.31(1)¹⁷ apply for imposed conditions for the undertaking of the project as if the conditions were, under that Act, conditions of a development approval being decided by an assessment manager for a development application.

‘54D Effect of imposed conditions

- ‘(1) This section applies if there are imposed conditions for the undertaking of the project.
- ‘(2) The Integrated Planning Act, section 4.3.3¹⁸ applies to the undertaking of the project as if—
- (a) the project were development under that Act; and
 - (b) the imposed conditions were a development approval for the development.
- ‘(3) The Environmental Protection Act, sections 435 and 436 to 440 apply to the undertaking of the project as if the imposed conditions were development conditions under that Act for a development approval for the project.

17 Integrated Planning Act, sections 3.5.30 (Conditions must be relevant or reasonable) and 3.5.31 (Conditions generally)

18 Integrated Planning Act, section 4.3.3 (Compliance with development approval)

- ‘(4) To remove any doubt, it is declared that the provisions mentioned in subsections (2) and (3) apply to anyone who undertakes the project, including, for example—
- (a) the proponent; and
 - (b) any of the following who undertake the project—
 - (i) an agent, contractor or subcontractor or licensee of the proponent;
 - (ii) an agent, contractor or subcontractor or licensee of a person mentioned in subparagraph (i).
- ‘(5) Also, it is declared that—
- (a) the Integrated Planning Act, section 4.4.3¹⁹ applies in relation to an offence against section 4.3.3 of that Act; and
 - (b) the Environmental Protection Act, section 493²⁰ applies in relation to an offence against section 435 and 436 to 440 of that Act.

‘54E Imposed conditions override conditions of other approvals

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

‘54F Provision about enforcement orders under the Integrated Planning Act

- ‘(1) This section applies if—
- (a) a proceeding is proposed to be started in the Planning and Environment Court under—

19 Integrated Planning Act, section 4.4.3 (Executive officers must ensure corporation complies with Act)

20 Environmental Protection Act, section 493 (Executive officers must ensure corporation complies with Act)

- (i) the Integrated Planning Act, chapter 4, part 3, division 5;²¹ or
 - (ii) the Environmental Protection Act, section 505;²² and
 - (b) the relief or remedy proposed to be sought in the proceeding relates to an offence, or threatened or anticipated offence, against a provision of those Acts as applied under section 54D; and
 - (c) the offence or threatened or anticipated offence relates to the project.
- ‘(2) Despite the provisions mentioned in subsection (1)(a), only the following persons may bring the proceeding—
- (a) the Coordinator-General;
 - (b) the nominated entity for a relevant imposed condition for the undertaking of the project;
 - (c) the relevant local government for the project;
 - (d) the proponent;
 - (e) someone else whose interests are significantly adversely affected by the subject matter of the proceeding.

‘54G Declaration-making powers

- ‘(1) A proceeding mentioned in the Integrated Planning Act, section 4.1.21²³ can not be started in relation to the project.
- ‘(2) However, a person mentioned in section 54F(2) may bring a proceeding in the Planning and Environment Court for a declaration about whether there has been substantial compliance with an imposed condition for the undertaking of the project.
- ‘(3) The court has jurisdiction to hear and decide the proceeding.

21 Integrated Planning Act, chapter 4, part 3, division 5 (Enforcement orders of court)

22 Environmental Protection Act, section 505 (Restraint of contraventions of Act etc.)

23 Integrated Planning Act, section 4.1.21 (Court may make declarations)

- ‘(4) The Integrated Planning Act, sections 4.1.22 and 4.1.23²⁴ apply to the proceeding as if as it were a proceeding under section 4.1.21 of that Act.
- ‘(5) The court may, in deciding what orders it is to make in the proceeding, have regard to 1 or more of the following—
- (a) the laws and policies applying when the condition was imposed;
 - (b) the EIS for the project;
 - (c) the Coordinator-General's report for the EIS and any Coordinator-General's change report for the project;
 - (d) the financial implications of—
 - (i) the imposed conditions for the undertaking of the project; or
 - (ii) any proposed orders;
 - (e) the public interest;
 - (f) any environmental management plan required under the condition;
 - (g) any other matter the court considers relevant.’.

40 Amendment of s 82 (Acquisition of land in State development area)

- (1) Section 82(1)(b), after ‘essential services,’—
insert—
‘the establishment of an infrastructure corridor’.
- (2) Section 82—
insert—
- ‘(4) In this section—
infrastructure corridor means an area for the establishment of infrastructure relating to roads, public transport or the

²⁴ Integrated Planning Act, sections 4.1.22 (Court may make orders about declarations) and 4.1.23 (Costs)

transportation, movement, transmission or flow of anything, including, for example, goods, material, substances, matter, particles with or without charge, light, energy, information and anything generated or produced.’.

41 Amendment of s 84 (Use of land under approved development scheme)

Section 84(4)(b), after ‘for the use’—

insert—

‘and the approval has not lapsed under section 84A’.

42 Insertion of new s 84A

After section 84—

insert—

‘84A When approval for the use of land in State development area lapses

‘(1) This section applies to an approval under section 84(4)(b) for the use of land in a State development area.

‘(2) The approval lapses at the end of the currency period for the approval unless—

(a) if the use is, under the approved development scheme for the State development area, a material change of use—the change of use happens before the end of the currency period; or

(b) otherwise—the use substantially starts before the end of the currency period.²⁵

‘(3) In this section—

currency period, for the approval, means the latest of the following periods to end—

(a) the period that ends 4 years starting the day the approval took effect;

²⁵ See also section 177 (Existing approvals for the use of land in State development area).

- (b) if the approval states or implies a time for the approval to lapse—the period from the day the approval took effect until the stated or implied time;
- (c) if within the period mentioned in paragraph (a) or (b) the Coordinator-General, by written notice to the person having the benefit of the approval, fixes another period—the other period.’

43 Amendment of pt 6, div 3, hdg (Undertaking of works by or on behalf of local bodies)

Part 6, division 3, heading, ‘or on behalf of local bodies’—
omit, insert—
‘local bodies or approved persons’.

44 Amendment of s 99 (Recommendation of certain works)

Section 99, after ‘local body or local bodies,’—
insert—
‘or another person, who under an agreement with a local body or local bodies, is permitted or required to undertake the works,’.

45 Amendment of s 100 (Approval of certain works)

Section 100(1), after ‘local body or local bodies concerned’—
insert—
‘or the other person mentioned in section 99 (an *approved person*)’.

46 Amendment of s 101 (Time limited for works)

Section 101, after ‘local body’—
insert—
‘or approved person’.

47 Amendment of s 102 (Direction to be complied with)

- (1) Section 102, after ‘A local body’—

insert—

‘or approved person’.

- (2) Section 102, after ‘all other local bodies concerned’—

insert—

‘or, for an approved person, the local body or local bodies concerned’.

48 Amendment of s 104 (Procedure on local body’s default)

- (1) Section 104, heading, after ‘local body’s’—

insert—

‘or approved person’s’.

- (2) Section 104, after ‘local body’—

insert—

‘or approved person’.

49 Amendment of s 105 (Borrowing to facilitate remedy of default)

Section 105, after ‘local body’s’—

insert—

‘or approved person’s’.

50 Amendment of s 106 (Liability for costs of work to remedy default)

- (1) Section 106(1), after ‘local body’s’—

insert—

‘or approved person’s’.

- (2) Section 106, after ‘local body’—

insert—

‘or approved person’.

51 Amendment of s 107 (Power to order postponement of works)

Section 107, after ‘local body’—

insert—

‘or approved person’.

52 Amendment of s 108 (Recommendation of certain works)

Section 108, after ‘by the Coordinator-General’

insert—

‘, or by another person on behalf of the Coordinator-General’.

53 Amendment of s 109 (Approval of certain works)

(1) Section 109(b), after ‘by the Coordinator-General’

insert—

‘, or by another person on behalf of the Coordinator-General,’.

(2) Section 109(b), after ‘local bodies’—

insert—

‘or approved person’.

(3) Section 109, after ‘that the Coordinator-General’—

insert—

‘or other person’.

54 Amendment of s 110 (Coordinator-General to undertake approved works)

(1) Section 110(1), after ‘the Coordinator-General’

insert—

‘or other person approved under the section’.

- (2) Section 110(2), after ‘by the Coordinator-General’
insert—
‘, or by another person on behalf of the Coordinator-General’.

55 Amendment of s 111 (Delegation of authority of Coordinator-General)

Section 111—

insert—

- ‘(5) This section does not limit the persons who may, under section 110, undertake works the subject of an approval under section 109 on behalf of the Coordinator-General.’.

56 Amendment of s 125 (Power of Coordinator-General to take land)

- (1) Section 125(4) to (6), after ‘other than the State’—

insert—

‘or a local body’.

- (2) Section 125(8) to (15)—

renumber as section 125(9) to (16).

- (3) Section 125—

insert—

- ‘(8) If the taking of land is, under subsection (1)(f), for an infrastructure facility, the notice of intention to resume the land by compulsory acquisition must not be given until at least 2 months after the start of the consultation and negotiation period for the taking fixed under a guideline made under section 174(1)(a).²⁶’.

- (4) Section 125(11) and (13), as renumbered, ‘subsection (9)’—

omit, insert—

‘subsection (10)’.

26 Section 174 (Coordinator-General must make guidelines)

- (5) Section 125(13), as renumbered, ‘granted in fee simple’—
omit.
- (6) Section 125(13), as renumbered, after ‘held in fee simple’—
omit.
- (7) Section 125(14), as renumbered, ‘subsections (7) to (12)’—
omit, insert—
‘subsections (7) to (13)’.

57 Insertion of new s 125A

After section 125—

insert—

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

- ‘(1) The Coordinator-General’s power under section 125 to take land for a purpose mentioned in section 125(1), includes the power to create, by registration under any of the following that apply to the land, a public utility easement over the land—
 - (a) the *Land Act 1994*, chapter 6, part 4, division 8;
 - (b) the *Land Title Act 1994*, part 6, division 4.
- ‘(2) For the *Land Act 1994*, section 369 and the *Land Title Act 1994*, section 89,²⁷ the person for whom the land is to be taken under section 125 is taken to be a public utility provider.
- ‘(3) If the document creating the easement states the following have been complied with to the extent they are relevant for the taking of the easement, the easement may be registered under the Acts without the document having been signed by the owner of the land to be burdened by the easement—
 - (a) section 126;
 - (b) any relevant guidelines made under section 174.

²⁷ *Land Act 1994*, section 369 (Public utility easements) and the *Land Title Act 1994*, section 89 (Easements for public utility providers)

‘(4) Subsection (3) applies despite the *Land Act 1994*, section 363(1) or the *Land Title Act 1994*, section 83(1).²⁸’.

58 Amendment of s 126 (Ensuring reasonable steps are taken to acquire land by agreement)

Section 126(1), after ‘other than the State’—

insert—

‘or a local body’.

59 Amendment of s127 (Relationship with native title legislation)

(1) Section 127(1), ‘section 125(9)’—

omit, insert—

‘section 125(10)’.

(2) Section 127(1)(a), ‘section 125(12)’—

omit, insert—

‘section 125(13)’.

60 Amendment of s 174 (Coordinator-General must make guidelines)

(1) Section 174(1)(a)—

omit, insert—

‘(a) a consultation and negotiation period for the proposed taking, under section 125(1)(f),²⁹ of land for infrastructure facilities; and’.

(2) Section 174(3)(g) and (h)—

omit, insert—

28 *Land Act 1994*, section 363 (Registration of easement) and the *Land Title Act 1994*, section 83 (Registration of easement)

29 Section 125 (Power of Coordinator-General to take land)

‘(g) procedural requirements for the consultation and negotiation period.’.

(3) Section 174—

insert—

‘(5) A guideline may also provide for procedural requirements to be complied with before the consultation and negotiation period starts.’.

61 Insertion of new pt 8, div 4

Part 8—

insert—

‘Division 4 Other miscellaneous provisions

‘175A EIS must not, under particular other Acts, be required for PNG pipeline project

‘(1) This section applies—

(a) to an application under the *Environmental Protection Act 1994* for an environmental authority (petroleum activities) for the PNG pipeline project; or

(b) if, under the *Nature Conservation Act 1992*, section 34, 35, or 38, a person seeks an interest in land in a protected area and the interest sought is for the PNG pipeline project.

‘(2) Despite the *Environmental Protection Act 1994*, section 104 and the *Nature Conservation Act 1992*, section 39B,³⁰ an EIS can not be required under those sections in relation to the application or the seeking of the interest.

‘(3) In this section—

PNG pipeline project means all of the following, but only to the extent it was the subject of the 1998 Impact Assessment Study under this Act—

³⁰ *Environmental Protection Act 1994*, section 104 (EIS may be required) and the *Nature Conservation Act 1992*, section 39B (Chief executive may require EIS)

- (a) the proposed project that involves the construction and operation of 1 or more pipelines to transport gas from the Southern Highlands of Papua New Guinea, across Torres Strait and Cape York Peninsula to parts of the State including Townsville and Gladstone;
- (b) ancillary works, including, for example access roads, construction camps and compressor and other stations, to enable the construction and the ongoing operation of the pipeline or pipelines.’.

62 Replacement of pt 9, hdg (Transitional provisions for the State Development and Public Works Organisation Amendment Act 1999)

Part 9, heading—

omit, insert—

‘Part 9 Transitional provisions

‘Division 1 Transitional provisions for State Development and Public Works Organisation Amendment Act 1999’.

63 Insertion of new pt 9, div 2

After section 176—

insert—

**‘Division 2 Transitional provisions for State
Development and Public Works
Organisation and Other Legislation
Amendment Act 2005**

**‘177 Existing approvals for the use of land in State
development area**

- ‘(1) This section applies to an approval under section 84(4)(b)³¹ for the use of land in a State development area if the approval was granted before the commencement of this section.
- ‘(2) Section 84A³² applies to the approval.
- ‘(3) However, for applying section 84A(3) the approval is taken to have taken effect only when this section commenced.

‘178 Conditions for north-south bypass tunnel project

- ‘(1) This section applies for the significant project called the ‘north-south bypass tunnel project’.
- ‘(2) Sections 35(4)(d) and part 4, division 8³³ are taken to apply to the project.
- ‘(3) The conditions stated in appendix 1, schedule 3 of the Coordinator-General’s report dated 25 August 2005 evaluating the EIS for the project are taken to be imposed conditions for the undertaking of the project.’.

64 Amendment of schedule (Dictionary)

- (1) Schedule, definition *EIS*—
omit.
- (2) Schedule—

31 Section 84 (Use of land under approved development scheme)

32 Section 84A (When approval for the use of land in State development area lapses)

33 Section 35 (Coordinator-General evaluates EIS, submissions, other material and prepares report) and part 4, division 8 (Application of Coordinator-General’s report if no relevant approval)

insert—

‘approved person see section 100(1).

Coordinator-General’s change report, for part 4, see section 35I(1).

EIS means environmental impact statement.

imposed condition, for part 4, see section 54B(2).

nominated entity, for part 4, see section 24.

relevant local government, for part 4, see section 24.’.

- (3) Schedule, definition *private works*, ‘facilities’—

omit, insert—

‘infrastructure’.

- (4) Schedule, definition *private works*, from ‘in connection with’ to ‘community’—

omit.

Part 4 Amendment of Freedom of Information Act 1992

65 Act amended in pt 4

This part amends the *Freedom of Information Act 1992*.

66 Amendment of s 47A (Matter relating to investment incentive scheme)

Section 47A(2), definition *department*—

omit, insert—

‘department means the department administered by the Minister having responsibility for business, industry development, and investment opportunities and attraction as identified in the Administrative Arrangements and within which that responsibility is administered.’.

67 Insertion of new pt 11

After part 10—

insert—

**‘Part 11 Transitional provision for State
Development and Public Works
Organisation and Other
Legislation Amendment Act
2005**

‘123 Application of amendment of definition *department*

‘Section 47A³⁴, as amended by the *State Development and Public Works Organisation and Other Legislation Amendment Act 2005*, applies in relation to an application under this Act for access to a document, or for the review of a decision under this Act about access to a document, whether the application was made before or after the commencement of this section, as if the amendment of section 47A had effect on and from the commencement of the *Administrative Arrangements Order (No. 2) 2005*.³⁵’.

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34 Section 47A (Matter relating to investment incentive scheme)

35 The *Administrative Arrangements Order (No. 2) 2005* commenced on 28 July 2005.