



Queensland

Urban Land Development Authority Act 2007

Act No. 41 of 2007



Queensland

Urban Land Development Authority Act 2007

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Queensland

Urban Land Development Authority Act 2007

Act No. 41 of 2007

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

[Assented to 11 September 2007]

The Parliament of Queensland enacts—**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;
 - (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.

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 Integrated Planning Act, section 1.3.2.
- (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.

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 Integrated Planning Act, taken to have been made by the local government.
- (4) The Integrated Planning Act, sections 2.1.5, 2.1.12 and 2.1.19 and schedules 1, 2 and 3 do 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.

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 1993*, 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 Integrated Planning Act

Subdivision 1 Provisions about the declaration of urban development areas

13 Existing IPA development applications

- (1) This section applies if, immediately before the declaration of an area as an urban development area—
 - (a) an IPA 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 Integrated Planning Act, and that Act continues to apply, as if the land were not land in an urban development area.

14 Existing IPA development approvals

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

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 Integrated Planning Act, chapter 2, part 6.

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 IPA 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 IPA 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—
 - (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 IPA development approval.

18 Provisions for converted IPA development approval

- (1) This section applies for a UDA development approval that, under section 16(2) or 17(3), becomes an IPA development approval.
- (2) UDA development conditions stated in the UDA development approval are taken to be conditions of the IPA development approval.
- (3) The Integrated Planning Act, section 4.1.27 does not apply to the IPA 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 Integrated Planning Act for the IPA 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 IPA 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 Integrated Planning Act, section 4.1.21 in relation to the IPA development approval or the conditions.

Editor's note—

Integrated Planning Act, sections 4.1.21 (Court may make declarations) and 4.1.27 (Appeals by applicants)

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 Integrated Planning Act.

Division 3 Relationship with particular Acts about local government

20 Relationship with the City of Brisbane Act 1924 or the Local Government Act 1993

- (1) The declaration of an area as an urban development area does not affect—
 - (a) the operation of the *City of Brisbane Act 1924* or the *Local Government Act 1993* 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.

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 Integrated 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—
 - (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.

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.
- (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
- (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.

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
 - (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 Integrated Planning Act or another Act.

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.

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 IPA development approvals and community infrastructure designations**

- (1) This section applies to—
 - (a) an IPA 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.
- (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 IPA or UDA development approval

- (1) This section applies if—
 - (a) an IPA 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 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

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—

- (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.
- (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

The authority can not grant the UDA development approval applied for if the relevant development would be inconsistent with—

- (a) the land use plan for the relevant urban development area; or
- (b) a preliminary approval under the Integrated Planning Act in force for the relevant land.

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
 - (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 Integrated 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—

- (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—

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.

(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 Integrated Planning Act, chapter 4, part 1, divisions 10 to 12, 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 Integrated Planning Act, chapter 4, part 1, division 10, 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—

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
- (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.

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.
- (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 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 Integrated Planning Act, chapter 4, part 3, divisions 2 and 3, and any other Act that refers to an IPA development approval applies to the condition as if—
 - (a) the relevant UDA development approval were an IPA development approval; and
 - (b) the nominated assessing authority were an assessing authority under the Integrated Planning Act for development under the UDA development approval; and
 - (c) the reference to a development offence under the Integrated 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.

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

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

80 Plans of subdivision

- (1) This section applies to a plan, however called, for the reconfiguration of a lot if, under another Act, the plan requires the approval, in whatever form, of the authority before it can be registered or otherwise recorded under that Act.
- (2) The Integrated Planning Act, chapter 3, part 7, applies—
 - (a) as if a reference in that part to the local government were a reference to the authority; and
 - (b) as if a reference in that part to a development permit were a reference to a UDA development approval; and
 - (c) as if a reference in that part to a condition of a development permit were a reference to a UDA development condition of the UDA development approval; and
 - (d) as if a reference in that part to the land were a reference to the relevant land for the UDA development approval; and
 - (e) as if a reference in that part to assessable development were a reference to UDA assessable development; and
 - (f) as if a reference in that part to rates and charges levied for the land included a reference to a special rate or charge.

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
 - (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 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 Integrated Planning Act, section 4.1.23.

- (5) In this section—
environment see the Integrated Planning Act, schedule 10.

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 Integrated Planning Act, section 4.1.5 (Contempt and contravention of orders).

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.
- (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.

95 Application of other Acts

- (1) The authority is—
 - (a) a unit of public administration; and
 - (b) a statutory body under the *Financial Administration and Audit Act 1977*; 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—
 - (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 Integrated 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.

- (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—
 - (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.
- (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.
- (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 1993*, section 957.

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 1993*, sections 1063, 1070 and 1071 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
 - (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.

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 Administration and Audit Act 1977* 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 1996*.

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.

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)

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.

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 1996*.

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 1996*.
- (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.

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.

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

- (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.

Editor's note—

Local Government Act 1993, section 1018 (Overdue rates may bear interest) and chapter 14, parts 6 (Concessions) and 7 (Recovery of rates)

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 1993*, section 921.

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.

- (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 Administration and Audit Act 1977*.

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.
- (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.
- (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 Integrated Planning Act, section 5.1.34 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.
- (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—
- (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);
- (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 7A **Amendment of Body Corporate and Community Management Act 1997**

146A Act amended in pt 7A

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

146B Amendment of s 29 (Notice about change of scheme being developed progressively)

Section 29(3), ‘under the Planning Act’—
omit.

146C Amendment of s 57 (Other matters about new statements for schemes developed progressively)

- (1) Section 57(4), ‘the development approval or’—
omit, insert—
‘a development approval or the’.
- (2) Section 57(7)(b), ‘the development approval’—
omit, insert—
‘each development approval’.
- (3) Section 57(7)(c), ‘has’—
omit, insert—
‘or the urban land development authority has, under section 60,’.

146D Replacement of s 60 (Local government community management statement notation)

Section 60—
omit, insert—

‘60 Community management statement notation

- ‘(1) Subject to subsection (6), a community management statement proposed to be recorded for a community titles scheme may be recorded only if each relevant planning body for the scheme has endorsed on the statement a certificate (a *community management statement notation*).
- ‘(2) In a community management statement notation a relevant planning body for a community titles scheme states only that it has noted the community management statement.
- ‘(3) Subject to subsection (4), a relevant planning body must endorse a community management statement notation on the proposed community management statement.
- ‘(4) For a community titles scheme intended to be developed progressively, a relevant planning body for the scheme is not required to endorse a community management statement notation on the proposed community management statement if there is an inconsistency between a provision of the statement and—
- (a) if the relevant planning body is a local government—a lawful requirement of, or an approval given by, the local government under the *Integrated Planning Act 1997*; or
 - (b) if the relevant planning body is the urban land development authority—a lawful requirement of, or an approval given by—
 - (i) a local government under the *Integrated Planning Act 1997*; or
 - (ii) the urban land development authority under the *Urban Land Development Authority Act 2007*; or
 - (c) the planning instrument of the relevant planning body; or
 - (d) a lawful requirement of, or an approval given by, the relevant planning body under the planning instrument of the relevant planning body.

Example for subsection (4)—

A relevant planning body that is a local government would be expected to refuse to endorse a proposed community management statement with a community management statement notation if the statement envisages

development of part of the scheme land in a way prohibited under its planning instrument. However, the relevant planning body would be expected to endorse the proposed statement with a community management statement notation if the proposed community management statement acknowledges that development of the part of the land in the way proposed will proceed only if and when a suitable amendment of the planning instrument is made.

- ‘(5) For subsection (4), a provision of the statement is not inconsistent with a planning instrument only because—
- (a) the planning instrument allows a person to do an act or engage in an activity in the area in which the community titles scheme is established; and
 - (b) the provision requires the person to obtain the body corporate’s permission before doing the act or engaging in the activity on scheme land.
- ‘(6) Despite subsection (1), a new community management statement may be recorded without the endorsement on it of any community management statement notation that is otherwise required if—
- (a) there is no difference between the existing statement for the scheme and the new statement for any issue that a relevant planning body for the scheme could have regard to for identifying an inconsistency mentioned in subsection (4); or

Example for paragraph (a)—

The new statement includes an interest schedule that is different from the interest schedule included in the existing statement, but there is otherwise no difference between the 2 statements.

- (b) any difference between the statements is limited to changes to reflect—
 - (i) a lot entitlement adjustment agreed to under section 50; or
 - (ii) a formal acquisition affecting the scheme; or
 - (iii) a change in a services location diagram for the scheme; or
 - (iv) the incorporation of a lot with common property, or conversion of lessee common property to a lot, under section 40.

- ‘(7) If a relevant planning body for the scheme does not endorse a community management statement notation within 40 days after the community management statement is submitted for endorsement under this section, or refuses to endorse the notation—
- (a) the person who submitted the community management statement for endorsement of the notation may appeal to the Planning and Environment Court under the *Integrated Planning Act 1997*; and
 - (b) the court is required to hear and decide the appeal.
- ‘(8) For an appeal under subsection (7)—
- (a) the relevant planning body is the respondent; and
 - (b) the *Integrated Planning Act 1997*, chapter 4, part 1, divisions 10 to 12 apply, with necessary changes, as if—
 - (i) the appeal were an appeal mentioned in the divisions; and
 - (ii) the relevant planning body were the only other party to the appeal; and
 - (c) the appellant must give the relevant planning body the written notice of the appeal under the divisions within 10 business days after starting the appeal.
- ‘(9) In this section—
- planning instrument***, of a relevant planning body, means—
- (a) if the body is a local government—
 - (i) its planning scheme under the *Integrated Planning Act 1997*; or
 - (ii) an instrument of the local government having effect as if it were a planning scheme of the local government; or
 - (b) if the body is the urban land development authority—an interim land use plan or development scheme under the *Urban Land Development Authority Act 2007*.
- relevant planning body***, for a community titles scheme, means—

- (a) to the extent scheme land is or is proposed to be located in an urban development area—the urban land development authority; and
- (b) to the extent scheme land is or is proposed to be located in a local government area but not in an urban development area—the local government for the local government area.’.

146E Amendment of s 61 (Giving copy of community management statement to local government)

- (1) Section 61, heading, ‘to local government’—
omit.
- (2) Section 61(1), ‘either’—
omit, insert—
‘any’.
- (3) Section 61(1)—
insert—
‘(c) a community management statement that, under section 60, is endorsed with a community management statement notation by the urban land development authority.’.
- (4) Section 61(2)—
omit, insert—
- ‘(2) The body corporate must give a copy of the statement to—
 - (a) each local government in whose local government area scheme land is located; and
 - (b) if any scheme land is in an urban development area and the urban land development authority has not endorsed the statement under section 60—the authority.’.

146F Amendment of s 78 (Termination of schemes)

- Section 78(6)—
insert—

‘(c) if any scheme land is in an urban development area, the urban land development authority.’.

146G Amendment of s 80 (Effect of termination on accrued charge, levy, rate or tax)

Section 80(1)(b), after ‘*Local Government Act 1993*’—

insert—

‘, the *Urban Land Development Authority Act 2007*’.

146H Amendment of s 180 (Limitations for by-laws)

Section 180(2), after ‘local law’—

insert—

‘or UDA by-law’.

146I Amendment of section 196 (Utility services not separately charged for)

(1) Section 196(7), ‘Subsections (8) and (9)’—

omit, insert—

‘Subsections (8), (9) and (10)’.

(2) Section 196(9) to (11)—

renumber as section 196(10), (12) and (13) respectively.

(3) Section 196—

insert—

‘(9) If the utility service provider is the urban land development authority, the unpaid amount becomes a special rate or charge under the *Urban Land Development Authority Act 2007* that is payable proportionately by each lot owner according to the contribution schedule lot entitlement for the lot.’.

(4) Section 196(10), as renumbered, after ‘local government’—

insert—

‘or the urban land development authority’.

(5) Section 196—

insert—

‘(11) For applying the *Urban Land Development Authority Act 2007*, section 127 for the purposes of subsection (9), the reference in the section to the land is taken to be a reference to each lot.’

(6) Section 196(12), as renumbered, ‘Subsection (9)’—

omit, insert—

‘Subsection (10)’.

146J Amendment of s 197 (Registering charge on land under this Act)

Section 197(1) and (2), ‘section 196(9)(b)’—

omit, insert—

‘section 196(10)(b)’.

146K Amendment of s 198 (Effect of scheme change on liability for charges etc.)

Section 198—

insert—

‘(4) Also, this section does not apply to an amount owing to the urban land development authority to the extent this section is inconsistent with the *Urban Land Development Authority Act 2007*.’.

146L Amendment of s 313 (Representation in planning proceedings)

Section 313(1), ‘Planning Act’—

omit, insert—

‘*Integrated Planning Act 1997*’.

146M Amendment of sch 4 (By-laws)

Schedule 4, section 10(2)(a)—

omit, insert—

- ‘(a) comply with all of the following laws about the disposal of garbage—
- (i) if the lot is in an urban development area—UDA by-laws, and any local laws that apply;
 - (ii) if the lot is not in an urban development area—local laws; and’.

146N Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *development approval*, *Planning Act* and *planning scheme*—

omit.

- (2) Schedule 6—

insert—

‘***development approval*** means—

- (a) a development approval under the *Integrated Planning Act 1997*; or
- (b) a UDA development approval under the *Urban Land Development Authority Act 2007*.

UDA by-law means a by-law made by the urban land development authority.

urban development area means an urban development area under the *Urban Land Development Authority Act 2007*.

urban land development authority means the Urban Land Development Authority under the *Urban Land Development Authority Act 2007*’.

Part 8 Amendment of Integrated Planning Act 1997

147 Act amended in pt 8

This part amends the *Integrated Planning Act 1997*.

148 Amendment of s 1.4.4 (New planning instruments can not affect existing development approvals)

Section 1.4.4—

insert—

‘Note—

See also section 2.5B.19 (New planning instruments can not affect approved master plan).’.

149 Amendment of s 2.1.3 (Key elements of planning schemes)

Section 2.1.3(1)—

insert—

‘Note—

If land in the planning scheme area is a declared master planned area, the planning scheme must also include a structure plan for the master planned area. See section 2.5B.7.’.

150 Insertion of new s 2.1.4A

Chapter 2, part 1, division 3—

insert—

‘2.1.4A Application of div 3

‘This division does not apply to amendments of a local government’s planning scheme to include a structure plan.

Note—

For declared master planned areas, see part 5B and schedule 1A.’.

151 Amendment of s 2.1.10 (Extent of effect of temporary local planning instrument)

Section 2.1.10(2)(a), from ‘, within’ to ‘section 17,’—

omit.

152 Amendment of s 2.1.23 (Local planning instruments have force of law)

Section 2.1.23(3), ‘A planning scheme’—

omit, insert—

‘Subject to part 5B, a planning scheme’.

153 Amendment of s 2.5.1 (What are regions)

Section 2.5.1(a), ‘the SEQ region; and’—

omit, insert—

‘designated regions; and’.

154 Replacement of ch 2, pt 5A

Chapter 2, part 5A—

omit, insert—

‘Part 5A Regional planning in designated regions

‘Division 1 Preliminary

‘2.5A.1 Application of pt 5A

‘This part applies to a designated region.

‘2.5A.2 What is a *designated region*

‘(1) A *designated region* is—

- (a) the local government areas, or the parts of local government areas, prescribed under a regulation; and
- (b) Queensland waters adjacent to the local government areas or parts.

‘(2) A regulation under subsection (1)(a) must give a name to each designated region it prescribes.

‘Division 2 Regional coordination committees

‘2.5A.3 Establishment of regional coordination committee

- ‘(1) The regional planning Minister for a designated region must establish a regional coordination committee for the region.
- ‘(2) However, subsection (3) applies if—
 - (a) a regional planning advisory committee is established under section 2.5.2 for a region; and
 - (b) the area covered by the region is the same or substantially the same as a designated region.
- ‘(3) The regional planning advisory committee for the region is taken to be the regional coordination committee established for the designated region.

‘2.5A.4 Function of regional coordination committee

‘The function of a designated region’s regional coordination committee is to advise the State, through the regional planning Minister for the region, about the development and implementation of the region’s regional plan.

‘2.5A.5 Membership of regional coordination committee

- ‘(1) A designated region’s regional coordination committee has the membership decided by the regional planning Minister for the region by gazette notice.
- ‘(2) A member of a designated region’s regional coordination committee must be—
 - (a) a Minister; or
 - (b) a mayor or councillor of a local government of the region; or
 - (c) a person who has the appropriate qualifications, experience or standing to be a member of the committee.
- ‘(3) However, this section does not apply if section 2.5A.3(3) applies to the designated region.

‘2.5A.6 Dissolution of regional coordination committee

‘The regional planning Minister for a designated region may dissolve its regional coordination committee at any time.

‘2.5A.7 Quorum

‘A quorum for a meeting of a regional coordination committee is 1 more than half the number of members of the committee.

‘2.5A.8 Presiding at meetings

- ‘(1) The regional planning Minister for a designated region presides at all meetings of its regional coordination committee.
- ‘(2) If the regional planning Minister for the designated region is absent, the member nominated by the Minister must preside.

‘2.5A.9 Conduct of meetings

- ‘(1) Meetings of a designated region’s regional coordination committee must be conducted at the time and place the regional planning Minister for the region decides.
- ‘(2) A regional coordination committee must conduct its business and proceedings at meetings in the way it decides from time to time.

‘Division 3 Regional plans for designated regions**‘2.5A.10 What is a *regional plan***

- ‘(1) A *regional plan* for a designated region is an instrument made under section 2.5A.14(2) by the regional planning Minister for the region.
- ‘(2) A regional plan is a statutory instrument under the *Statutory Instruments Act 1992* and has the force of law.

‘2.5A.11 Key elements of regional plan

‘The regional planning Minister for a designated region must be satisfied its regional plan—

- (a) identifies—
 - (i) the desired regional outcomes for the region; and
 - (ii) the policies and actions for achieving the desired regional outcomes; and
- (b) identifies the desired future spacial structure of the region including—
 - (i) a future regional land use pattern; and
 - (ii) provision for regional infrastructure to service the future regional land use pattern, to inform—
 - (A) local governments when preparing priority infrastructure plans; and
 - (B) the State, local governments and other entities about infrastructure plans and investments; and
 - (iii) key regional environmental, economic and cultural resources to be preserved, maintained or developed; and
 - (iv) the way the resources are to be preserved, maintained or developed; and
 - (v) for paragraph (b)(iii), regional landscape areas; and
- (c) includes any other relevant regional planning matter for this Act.

‘Division 4 Preparing and making regional plans**‘2.5A.12 Regional planning Minister to prepare draft regional plan**

- ‘(1) The regional planning Minister for a designated region must prepare a draft regional plan for the region.

- ‘(2) The regional planning Minister must consult with the designated region’s regional coordination committee about preparing the draft.

‘2.5A.13 Notice of and public consultation on draft regional plan

- ‘(1) When the regional planning Minister for the designated region has prepared the draft regional plan for the region, that Minister must publish a notice—
- (a) in the gazette; and
 - (b) at least once in a newspaper circulating in the region.
- ‘(2) The notice must state the following—
- (a) that the draft regional plan is available for inspection and purchase;
 - (b) where copies of the draft regional plan are available for inspection and purchase;
 - (c) a contact telephone number for information about the draft regional plan;
 - (d) that written submissions about any aspect of the draft regional plan may be given to the regional planning Minister by any person;
 - (e) the period (the *consultation period*) during which the submissions may be made;
 - (f) the requirements for a properly made submission for this section.
- ‘(3) The consultation period must be for at least 60 business days after the day the notice is gazetted.
- ‘(4) The regional planning Minister must send a copy of the notice and the draft regional plan to each local government in the designated region.
- ‘(5) The regional planning Minister may send a copy of the notice and the draft regional plan to any other entity the regional planning Minister considers appropriate.

- ‘(6) For all of the consultation period, the regional planning Minister must keep a copy of the draft regional plan available for inspection and purchase.

‘2.5A.14 Making regional plan

- ‘(1) The regional planning Minister for the designated region must—
- (a) consider every properly made submission about the draft regional plan for the region; and
 - (b) consult with the designated region’s regional coordination committee about making the regional plan.
- ‘(2) After the regional planning Minister has acted under subsection (1), that Minister may—
- (a) make the regional plan as provided for in the draft regional plan as published; or
 - (b) make the regional plan and include any amendments of the draft regional plan the regional planning Minister considers appropriate.

‘2.5A.15 Notice of making of regional plan

- ‘(1) After the regional planning Minister for the designated region has made the regional plan for the region, that Minister must publish a notice about the making of the plan—
- (a) in the gazette; and
 - (b) at least once in a newspaper circulating in the region.
- ‘(2) The notice must state the following—
- (a) the day the regional plan was made;
 - (b) where a copy of the plan may be inspected and purchased.
- ‘(3) The regional plan for the designated region has effect on and from—
- (a) the day the making of the regional plan is gazetted; or
 - (b) if a later day for the commencement of the regional plan is stated in the regional plan—the later day.

‘Division 5 Amending or replacing regional plans

‘2.5A.16 Regional planning Minister may amend or replace regional plan

‘The regional planning Minister for a designated region may—

- (a) amend the region’s regional plan; or
- (b) replace the region’s regional plan with a new regional plan.

‘2.5A.17 How regional plan is amended or replaced

- ‘(1) Division 4 applies for amending a designated region’s regional plan—
 - (a) as if a reference in the division to the draft regional plan were a reference to the amendment; and
 - (b) as if a reference to 60 business days were a reference to 30 business days; and
 - (c) with any other necessary changes.
- ‘(2) Division 4 also applies for making a new regional plan for a designated region.
- ‘(3) If the regional plan is replaced by a new regional plan, the new regional plan has effect on and from—
 - (a) the day the making of the new regional plan is gazetted; or
 - (b) if a later day for the commencement of the new regional plan is stated in the new regional plan—the later day.
- ‘(4) When acting under section 2.5A.14, the regional planning Minister may also decide not to proceed with the amendment or replacement.
- ‘(5) If the regional planning Minister for the designated region makes a decision under subsection (4), that Minister must publish a notice in the gazette stating that the Minister has decided not to proceed with the amendment or replacement.

‘2.5A.18 Particular amendments of regional plan

- ‘(1) This section applies if—
- (a) the regional plan for a designated region requires only a minor amendment; or
 - (b) the regional planning Minister for a designated region wishes to amend the region’s regional plan to include a document to be made under the plan that—
 - (i) has been prepared by a public sector entity; and
 - (ii) the regional planning Minister is satisfied—
 - (A) demonstrates how the regional plan will be implemented; and
 - (B) has been subject to adequate public consultation.

Editor’s note—

For local growth management strategies under the SEQ regional plan, see chapter 6, part 8, division 1.

- ‘(2) The regional planning Minister for the designated region may make the amendment and division 4 does not apply to the making of the amendment.
- ‘(3) If the regional planning Minister makes the amendment, the regional planning Minister must publish a notice about the making of the amendment—
- (a) in the gazette; and
 - (b) at least once in a newspaper circulating in the region.
- ‘(4) The notice must state the following—
- (a) the day the amendment was made;
 - (b) where a copy of the regional plan, as amended, may be inspected and purchased.

‘Division 6**Effect of regional plans**

‘2.5A.19 State interest

‘For this Act, a designated region’s regional plan is taken to be a State interest.

‘2.5A.20 Local governments to amend planning schemes to reflect regional plan

- ‘(1) This section applies to a local government prescribed under section 2.5A.2(1) for a designated region unless the regional planning Minister for the region gives the local government a written direction to the contrary.
- ‘(2) The local government must amend its planning scheme under schedule 1 to reflect the designated region’s regional plan as made, amended or replaced.
- ‘(3) The regional planning Minister for the designated region may amend the planning scheme if—
 - (a) the regional planning Minister is satisfied a local government must amend its planning scheme under subsection (2); and
 - (b) the local government has not, within 90 business days after the day notice of the making of the designated region’s regional plan was gazetted, complied with schedule 1, section 9(3) for the amendment.
- ‘(4) Schedule 1, sections 12 to 17 and 19 to 21 apply for amending the planning scheme under subsection (3).
- ‘(5) However, for subsection (4), and if the context requires, a reference in schedule 1 to—
 - (a) the local government is a reference to the regional planning Minister for the designated region; and
 - (b) a decision of the local government is a reference to a decision of the regional planning Minister for the designated region; and
 - (c) a local government’s chief executive officer is a reference to the chief executive of the department; and
 - (d) the local government’s public office is a reference to the department’s State office.

- ‘(6) Anything done by the regional planning Minister under subsection (3) is taken to have been done by the local government and has the same effect as it would have had if the local government had done it.
- ‘(7) An expense reasonably incurred by the regional planning Minister in taking an action under subsection (3) may be recovered from the local government as a debt owing to the State.
- ‘(8) The regional planning Minister may, in writing, extend the period mentioned in subsection (3)(b).
- ‘(9) Nothing in this section affects or is affected by part 3.

‘2.5A.21 Effect of regional plan on other plans, policies or codes

- ‘(1) This section does not apply in relation to a State planning regulatory provision.

Note—

For State planning regulatory provisions, see section 2.5C.5 (Relationship with other planning instruments).

- ‘(2) An entity responsible for preparing or amending a plan, policy or code under an Act that may affect a matter under section 2.5A.11 must—
 - (a) in preparing the plan, policy or code, or the amendment of the plan, policy or code, take account of the region’s regional plan; and
 - (b) state in the plan, policy or code how the plan, policy or code, or the amendment of the plan, policy or code, will reflect the region’s regional plan for the matters under section 2.5A.11.
- ‘(3) For this Act, to the extent there is an inconsistency between a regional plan and any other plan, policy or code under an Act of a planning nature, including any other planning instrument, the regional plan prevails.

‘Part 5B Master planning for particular areas of State interest

‘Division 1 Preliminary

‘2.5B.1 Purpose of pt 5B

‘The purpose of this part is to provide for the following—

- (a) the identification, by local governments, regional planning Ministers for designated regions and the Minister, of areas (called master planned areas) to be the subject of integrated land use and infrastructure planning;
- (b) for declared master planned areas, local governments to make, in conjunction with the State, integrated land use plans (called structure plans) setting out the broad environmental, infrastructure and development intent to guide detailed planning for the areas;
- (c) the processes for making structure plans;
- (d) plans (called master plans) about the detailed planning of the areas;
- (e) the processes for making and approving master plans;
- (f) particular State assessment manager and referral agency functions under IDAS to be replaced with the role of State agencies who coordinate or participate in the making of structure plans and the approval of master plans for the areas.

‘Division 2 Master planned areas

‘2.5B.2 Identification of master planned areas

- ‘(1) A local government may identify an area as a master planned area in its planning scheme or in a document made under a regional plan.

- ‘(2) The regional planning Minister for a designated region may identify an area as a master planned area for the region in—
- (a) the regional plan for the region or in a document made under the regional plan; or
 - (b) a State planning regulatory provision; or
 - (c) a declaration made under section 2.5B.3 (a *master planned area declaration*).
- ‘(3) The Minister may identify an area as a master planned area in—
- (a) a State planning regulatory provision; or
 - (b) a declaration made under section 2.5B.3 (also a *master planned area declaration*).
- ‘(4) A master planned area identified in a master planned area declaration is a *declared master planned area*.
- ‘(5) A master planned area must be identified by reference to cadastral boundaries or metes and bounds.
- ‘(6) Despite subsections (1) to (4), a wild river area can not be included in a master planned area.

Note—

An SEQ regional plan major development area under chapter 6, part 8, is taken to be identified for this section as a master planned area, but not as a declared master planned area. See section 6.8.8(2).

‘2.5B.3 Master planned area declarations

- ‘(1) A master planned area declaration is made by a notice published—
- (a) in the gazette; and
 - (b) in at least 1 newspaper circulating in the area of the local government.
- ‘(2) The declaration must identify the master planned area and state—
- (a) the coordinating agency for the structure plan for the area; and

- (b) the participating agencies for the structure plan for the area; and
- (c) the jurisdiction or jurisdictions that the coordinating agency and each participating agency has under IDAS and for which they are the coordinating agency or a participating agency for the structure plan for the area; and

Note—

The jurisdiction is relevant to which agencies will be referral agencies for development applications relating to the area. See section 2.5B.64.

- (d) the timeframes for steps identified in schedule 1A for the making of the structure plan.
- ‘(3) The declaration may identify other matters the Minister considers appropriate for the making of the structure plan or the master planning of the area.

‘2.5B.4 Restriction on particular development applications in master planned area

- ‘(1) A development application for a preliminary approval to which section 3.1.6 applies may be made for a master planned area only—
- (a) after the structure plan for the area takes effect; and
 - (b) if the structure plan states that a development application for a preliminary approval to which section 3.1.6 applies can be made.
- ‘(2) A development application for a preliminary approval permitted to be made under subsection (1) can not seek to vary the effect of the structure plan area code included in the structure plan.
- ‘(3) If the preliminary approval is issued it is of no effect to the extent it purports to vary the effect of the structure plan area code.

‘2.5B.5 Notation of master planned areas on planning scheme

- ‘(1) The local government must note on its planning scheme for its planning scheme area each master planned area identified in—
- (a) a regional plan or a document made under a regional plan; or
 - (b) a State planning regulatory provision; or
 - (c) a master planned area declaration.
- ‘(2) The note is not an amendment of the planning scheme.
- ‘(3) Failure to comply with subsection (1) does not affect the validity of the identification of the master planned area.

‘Division 3 Structure plans for master planned areas declared by the Minister**‘2.5B.6 Application of div 3**

‘This division applies only for a declared master planned area.

‘2.5B.7 Local government’s obligation to have structure plan

‘The local government must have a structure plan for the area.

‘2.5B.8 Content of structure plan

- ‘(1) The structure plan must be—
- (a) a part of the local government’s planning scheme; and
 - (b) an integrated land use plan, setting out the broad environmental, land use, infrastructure and development intended to guide detailed planning for the area.
- ‘(2) The structure plan must—
- (a) include a structure plan area code that—
 - (i) states the development entitlements and development obligations for the area; and

- (ii) includes a structure plan map that gives a spatial dimension to the matters the subject of the code; and
- (b) identify master planning requirements for all or part of the area, including for example—
 - (i) any master plans required to be made for the area or the part; and
 - (ii) any requirements with which master plans must comply; and
 - (iii) whether a master plan is required to be assessed by the State, and if so—
 - (A) the coordinating agency and the participating agencies for the master plan application for the master plan; and
 - (B) their jurisdiction for the application; and

Note—

The jurisdiction is relevant to which agencies will be referral agencies for development applications relating to the area. See section 2.5B.64.

- (iv) any requirements for public notification of master plans; and
- (v) any period that, under division 5, may be provided for in the structure plan; and

Note—

For the periods, see sections 2.5B.24(2) and 2.5B.35(2).

- (c) for development in the area—
 - (i) state development that is—
 - (A) exempt development; and
 - (B) self-assessable development; and
 - (C) assessable development requiring code or impact assessment; and
 - (ii) codes for the development.
- ‘(3) The structure plan may—
 - (a) state desired environmental outcomes for the area; or

- (b) state assessable development requiring impact assessment that a master plan may state is self-assessable development or assessable development requiring code assessment; or
- (c) state that development can not be carried out in the area until there is a master plan for the area; or

Note—

See also section 4.3.5B(4) (Compliance with master plans).

- (d) state that a development application for a preliminary approval to which section 3.1.6 applies can be made for development in the area; or
- (e) include a regulated State infrastructure charges schedule.

‘2.5B.9 Relationship with schs 8 and 9

- ‘(1) The structure plan must be consistent with schedules 8 and 9.
- ‘(2) However, the structure plan may state a level of assessment for the matters mentioned in the items mentioned in section 2.5B.63(1)(a) that is different from the level of assessment under schedule 8, part 1 or 2 for the matters.
- ‘(3) To the extent the structure plan is inconsistent with what is required or permitted under subsections (1) and (2) the structure plan is of no effect.

‘2.5B.10 Provisions for making structure plan

- ‘(1) The structure plan must—
 - (a) be prepared as required by any guidelines prescribed under a regulation; and
 - (b) be made under schedule 1A.

Editor’s note—

For structure plans under the SEQ regional plan, see chapter 6, part 8, division 1.

- ‘(2) However, if the structure plan is made in substantial compliance with schedule 1A, the plan is valid so long as any noncompliance has not—

- (a) adversely affected the awareness of the public of the existence and nature of the proposed structure plan; or
- (b) restricted the opportunity of the public under schedule 1A to make a properly made submission; or
- (c) restricted the opportunity of the Minister to perform the Minister's functions under schedule 1A, sections 3, 7 and 14.

'2.5B.11 Provisions for new planning schemes

- '(1) Subsection (2) applies if the local government has complied with schedule 1A for making a structure plan but the planning scheme in which the plan was being sought to be included ceases to have effect.
- '(2) The Minister may approve the inclusion of the structure plan in a new planning scheme with changes the Minister considers appropriate without the local government having to comply again with schedule 1A.
- '(3) Subsection (4) applies if the local government has a structure plan (the *existing plan*) and it proposes to make a new planning scheme.
- '(4) A structure plan (the *remade plan*) may be included in the new planning scheme without having to comply with schedule 1A if the Minister has agreed that the remade plan is substantially consistent with the existing plan.

'2.5B.12 When structure plan takes effect

'The structure plan has effect on and from—

- (a) the day the adoption of the plan is notified in the gazette, under schedule 1A; or
- (b) if a later day for the commencement of the plan is stated in the plan—the later day.

'Division 4

General provisions about master plans

‘2.5B.13 Application of div 4

‘This division applies if the structure plan for a declared master planned area requires a master plan for all or part of the area.

‘2.5B.14 Local government approval required

‘A person preparing a proposed master plan under the structure plan must apply for and obtain the local government’s approval of the proposed plan, under division 5.

‘2.5B.15 Content of master plan

- ‘(1) The master plan must—
- (a) include a master plan area code that—
 - (i) states the development entitlements and development obligations for the master planning unit for the plan; and
 - (ii) includes a master plan map that gives a spatial dimension to the matters the subject of the code; and
 - (b) for development in the master planning unit—
 - (i) state whether the development is—
 - (A) exempt development; or
 - (B) self-assessable development; or
 - (C) assessable development requiring code assessment; or
 - (D) assessable development requiring impact assessment; and
 - (ii) state codes for the development; and
 - (iii) state when the development must be completed.

Note—

If the development is not completed within the stated time, see section 2.5B.20 (When master plan ceases to have effect).

- ‘(2) For subsection (1)(b)(i), the master plan may, for development in the master planning unit, state levels of assessment that vary the effect of a level of assessment stated in the structure plan for the master planning unit, in 1 or more of the following ways—
- (a) if the structure plan provides that a master plan may state that assessable development requiring impact assessment is self-assessable development or assessable development requiring code assessment—vary the level of assessment;
 - (b) for development stated in the structure plan as code assessable development—vary its level of assessment to self-assessable development;
 - (c) increase any level of assessment stated in the structure plan.
- ‘(3) For subsection (1)(b)(ii), the master plan may, for development in the master planning unit, identify a code for development that varies the effect of a code in the local government’s planning scheme included in the structure plan for the master planning unit.
- ‘(4) However, the code for development—
- (a) can not vary the effect of the structure plan area code identified in the structure plan; and
 - (b) must be substantially consistent with the code that it varies the effect of.
- ‘(5) The master plan may—
- (a) require later master plans for the master planning unit; and
 - (b) state requirements with which a later master plan must comply.

‘2.5B.16 Relationship with schs 8 and 9

- ‘(1) The master plan must be consistent with schedules 8 and 9.
- ‘(2) However, the master plan may state a level of assessment for the matters mentioned in the items mentioned in section

2.5B.63(1)(a) that is different from the level of assessment under schedule 8, part 1 or 2 for the matters.

- ‘(3) To the extent the master plan is inconsistent with what is required or permitted under subsections (1) and (2) the master plan is of no effect.

‘2.5B.17 Relationship with local planning instruments

‘To the extent the master plan is, by doing either or both of the things provided for under section 2.5B.15(1)(b)(i) or (ii), different to a local planning instrument, the master plan prevails.

‘2.5B.18 Master plan attaches to land in master planning unit

- ‘(1) The master plan attaches to all land in the master planning unit, and binds the owner, the owner’s successors in title and any occupier of the land.

Note—

See also section 4.3.5B (Compliance with master plans).

- ‘(2) To remove any doubt, it is declared that subsection (1) applies even if later development, including reconfiguring a lot, is carried out or approved for the land, or the land is reconfigured.

‘2.5B.19 New planning instruments can not affect approved master plan

‘If, after a master plan is approved, a new planning instrument, or an amendment of a planning instrument, commences, neither the planning instrument nor the amendment can change or otherwise affect the master plan.

‘2.5B.20 When master plan ceases to have effect

‘A master plan ceases to have effect—

- (a) at the time stated in the plan as the time by which development in the master planning unit must be

completed, whether or not the development has been completed; or

- (b) the earlier time when all development in the master planning unit has been carried out in accordance with the master plan.

‘Division 5 Applying for and obtaining approval of proposed master plan

‘Subdivision 1 Application stage for proposed master plan

‘2.5B.21 Who may apply

‘A person may, under this division, apply (a *master plan application*) to the local government for the approval of a proposed master plan for a declared master planned area.

Note—

See also section 4.3.5B(4) (Compliance with master plans).

‘2.5B.22 Requirements for application

- ‘(1) The master plan application must—
 - (a) be written; and
 - (b) if the application is made other than by the owner of the land in the master planning unit for the proposed master plan—contain, or be supported by, the owner’s written consent to the making of the application; and
 - (c) state—
 - (i) the proposed master plan; and
 - (ii) the master planning unit; and
 - (iii) the street address, property description and area of the master planning unit; and
 - (iv) the full name and postal address of the owner and the applicant; and

- (d) be signed by the applicant; and
 - (e) be accompanied by the number of copies of the proposed master plan required by the local government and any coordinating agency to allow compliance with section 2.5B.23; and
 - (f) be accompanied by—
 - (i) any relevant regulatory fee fixed by a resolution of the local government; and
 - (ii) any other fee prescribed under a regulation.
- ‘(2) The application is a properly made master plan application only if—
- (a) it complies with subsection (1); or
 - (b) the local government receives and, after considering any noncompliance with subsection (1), accepts the application.

‘Subdivision 2 Information and response stage

‘2.5B.23 Local government gives application to coordinating agency

- ‘(1) The local government must give any coordinating agency a copy of the master plan application within 10 business days after receiving it.
- ‘(2) The coordinating agency must give a copy of the application to the participating agencies within 5 business days after the day the application is received by the coordinating agency.

‘2.5B.24 Request for information from applicant

- ‘(1) The participating agencies, the coordinating agency and the local government may ask the applicant, by written request (a *request for information*) to give further information needed to assess the master plan application.
- ‘(2) A participating agency must within 40 business days or any lesser period provided for under the structure plan after the day (the *request date*) the application is received by the

participating agency give the coordinating agency a written notice—

- (a) making a request for information; or
 - (b) stating that the participating agency will not be making a request for information.
- ‘(3) If there are participating agencies, the coordinating agency must—
- (a) coordinate (the *coordinated request*) any requests for information by the participating agencies and its own request; and
 - (b) give the local government a written request making the coordinated request within 10 business days after the request date.
- ‘(4) If there are no participating agencies, the coordinating agency must, within 40 business days after it receives the application, give the local government a written notice—
- (a) making a request for information; or
 - (b) stating that the coordinating agency will not be making a request for information.
- ‘(5) The local government must give any request for information received from the coordinating agency, as well as any request for information to be issued by the local government, to the applicant within—
- (a) 5 business days after the day the local government receives a request for information from the coordinating agency; or
 - (b) 15 business days after the request date if the local government does not receive a request for information from the coordinating agency; or
 - (c) if there is no coordinating agency—40 business days or any lesser period provided for under the structure plan after the day the application is received by the local government.
- ‘(6) If a purported request for information by the coordinating agency is made after the period required under this section,

the local government must give the applicant the purported request within 5 business days after receiving the request.

‘2.5B.25 Applicant responds to any request for information

- ‘(1) If the applicant receives a request for information from the local government, the applicant must give the local government a written response to each request for information that—
- (a) gives all of the information requested; or
 - (b) gives part of the information requested together with a notice asking the coordinating agency and the local government to proceed with the assessment of the master plan application; or
 - (c) is a written notice—
 - (i) stating that the applicant does not intend to supply any of the information requested; and
 - (ii) asking the coordinating agency and the local government to proceed with the assessment of the application.
- ‘(2) The applicant must give the local government the response within—
- (a) generally—the period that ends 12 months after the day the applicant received the request for information from the local government (the *usual period*); or
 - (b) if, within the usual period, the local government and any coordinating agency agree with the applicant to extend the usual period—that extended period.
- ‘(3) The response must be accompanied by enough copies of it to allow subsections (4) and (5) to be complied with.
- ‘(4) The local government must give the coordinating agency a copy of the response within 5 business days after the day the local government receives it.
- ‘(5) The coordinating agency must give a participating agency a copy of the response within 5 business days after the day the coordinating agency receives it.

- ‘(6) To remove any doubt, it is declared that this section does not prevent the applicant from responding to a purported request for information mentioned in section 2.5B.24(6).

‘2.5B.26 Lapsing of application if applicant does not respond

‘If the applicant does not comply with section 2.5B.25(2), the master plan application lapses.

‘Subdivision 3 Consultation stage

‘2.5B.27 When consultation is required

- ‘(1) The applicant must give public notice of the master plan application—
- (a) in the circumstances stated in the structure plan for the master planned area; or
 - (b) if the proposed master plan seeks to reduce the level of assessment of assessable development requiring impact assessment stated in the structure plan as being capable of being reduced in a master plan to self-assessable development or assessable development requiring code assessment.
- ‘(2) The public notice must comply with section 2.5B.28 and 2.5B.29.
- ‘(3) If the public notice is required, the applicant must give the local government a copy of the notice.

‘2.5B.28 Content requirements for public notice

- ‘(1) Any required public notice of the master plan application must be the publication, at least once in a newspaper circulating in the master planned area, of a notice stating the following—
- (a) that the applicant has applied for approval of a proposed master plan;
 - (b) a description of the master plan and the master planning unit;

- (c) a contact telephone number of the local government for information about the proposed master plan;
 - (d) that the application is open for inspection and purchase;
 - (e) that written submissions about any aspect of the application may be made to the local government by any person;
 - (f) the period (the *consultation period*) during which a submission may be made;
 - (g) that the making of a submission does not give rise to a right of appeal against a decision about the application;
 - (h) the requirements for a properly made submission.
- ‘(2) The consultation period—
- (a) must be at least 20 business days after the publication; and
 - (b) must not include any business day from 20 December in a particular year to 5 January in the following year, both days inclusive.

‘2.5B.29 When public notice must be given

- ‘(1) Any required public notice of the master plan application must be published within 20 business days after—
- (a) if a request for information is made under section 2.5B.24—the response to the request being given to the local government, under section 2.5B.25; or
 - (b) if no request for information is made under section 2.5B.24—the end of the period mentioned in section 2.5B.24(5)(b) or (c).
- ‘(2) However, if—
- (a) a purported request for information is made after the period required under section 2.5B.24; and
 - (b) the applicant elects to comply with the request before the end of the 20 business days mentioned in subsection (1);

the public notice must be given within 20 business days after the applicant complies with the request.

‘2.5B.30 Notice to comply with public notice requirement

- ‘(1) This section applies if public notice of the master plan application is required and the applicant does not comply with section 2.5B.29.
- ‘(2) The local government may give the applicant a written notice requiring the public notice under section 2.5B.29 to be published within a stated period after the giving of the notice.
- ‘(3) The stated period must be at least 10 business days after the giving of the notice.

‘2.5B.31 Lapsing of application if notice not complied with

‘If the applicant does not comply with a notice under section 2.5B.30, the master plan application lapses.

‘2.5B.32 Making submissions

- ‘(1) During the consultation period, any person may make a submission to the local government about the master plan application.
- ‘(2) The local government must accept a submission if the submission is a properly made submission.
- ‘(3) However, the local government may accept a written submission even if the submission is not a properly made submission.
- ‘(4) If the local government has accepted a submission, the person who made the submission may, by written notice—
 - (a) during the consultation period, amend the submission; or
 - (b) at any time before a decision on the application is made by the local government, withdraw the submission.

‘2.5B.33 Distribution of submissions

- ‘(1) The local government must, if asked by the coordinating agency, give a copy of each properly made submission or other submission accepted under section 2.5B.32(3) or amended under 2.5B.32(4)(a) to the coordinating agency—
 - (a) for a properly made submission—within 5 business days after the end of the consultation period; or
 - (b) for a submission accepted under section 2.5B.32(3) or amended under section 2.5B.32(4)(a)—within 5 business days after the submission is accepted or amended.
- ‘(2) The local government must also advise the coordinating agency of any withdrawn submission within 5 business days after the local government is advised a submission is withdrawn.
- ‘(3) The coordinating agency must give a copy of the submissions received by it under subsection (1), to the participating agencies within 5 business days after the day the coordinating agency receives the submissions from the local government.
- ‘(4) The coordinating agency must advise the participating agencies of any withdrawn submission within 5 business days after the day the coordinating agency receives an advice under subsection (2).

‘Subdivision 4 State government decision stage**‘2.5B.34 Assessment by participating agency and coordinating agency**

- ‘(1) Any participating agency and any coordinating agency must assess the master plan application—
 - (a) for participating agencies, within the limits of their jurisdiction as stated in the structure plan; and
 - (b) against the following—
 - (i) State planning regulatory provisions;

- (ii) a regional plan not appropriately reflected in the structure plan;
 - (iii) State planning policies or parts of State planning policies not appropriately reflected in the structure plan;
 - (iv) if the master planning unit contains designated land, its designation;
 - (v) the structure plan for the master planned area;
 - (vi) other master plans applicable to the master planning unit for the proposed master plan;
 - (vii) State infrastructure agreements for the master planned area; and
- (c) having regard to—
- (i) the planning scheme and any other relevant local planning instrument; and
 - (ii) other master plans applicable to the master planned area.
- ‘(2) In assessing the application, a participating agency or the coordinating agency may give the weight it is satisfied is appropriate to a document of a type mentioned in subsection (1)(b) or (c) that came into effect after the application was made but before it acts under section 2.5B.35 or 2.5B.39.

‘2.5B.35 Participating agency’s response

- ‘(1) A participating agency must advise the coordinating agency of its recommendation within the required period after—
- (a) if the participating agency does not make a request for information—the day it received the master plan application; or
 - (b) if the participating agency makes a request for information—the day it receives the response to the request.
- ‘(2) In this section—
- required period* means—

- (a) generally—60 business days; or
- (b) if the structure plan states a lesser period for the giving of the recommendation—the lesser period.

‘2.5B.36 Participating agency’s response powers

- ‘(1) A participating agency may, within the limits of its jurisdiction as stated in the structure plan, recommend to the coordinating agency one or more of the following—
 - (a) that it has no conditions to include in an approval of the proposed master plan;
 - (b) conditions that must be included in an approval of the proposed master plan;
 - (c) that any approval must be for part only of the proposed master plan;
 - (d) that the master plan application be refused.
- ‘(2) Subsection (1) is subject to section 2.5B.44.

‘2.5B.37 Coordinating agency’s assessment

‘The coordinating agency must, within 20 business days after receiving the last response from a participating agency (the *coordinating agency assessment period*)—

- (a) consider each participating agency’s response; and
- (b) make a preliminary assessment of the application, based on the assessment carried out under section 2.5B.34; and
- (c) if there is a conflict between the preliminary assessment and a participating agency’s response, or between the responses of participating agencies, to seek to achieve in consultation with the relevant participating agency or agencies an agreed State government response to the master plan application.

‘2.5B.38 Resolution of conflict by Minister

- ‘(1) If the coordinating agency can not resolve an agreed State government response to the master plan application, the coordinating agency must, within the coordinating agency assessment period, refer the matter to the Minister.
- ‘(2) If a matter is referred to the Minister, the Minister must—
 - (a) establish a committee to prepare a report on the matters and having considered the report, decide the response to be provided by the coordinating agency; or
 - (b) having considered the written views of the parties, decide the response to be provided by the coordinating agency.
- ‘(3) The Minister’s decision must not be contrary to any relevant law.

‘2.5B.39 Coordinating agency’s decision

- ‘(1) The coordinating agency must advise the local government of the coordinating agency’s decision within 5 business days after—
 - (a) the end of the coordinating agency assessment period if there is an agreed State government response to the master plan application; or
 - (b) receiving the Minister’s decision.
- ‘(2) The coordinating agency’s decision must tell the local government one or more of the following—
 - (a) that it has no conditions to include in an approval of the proposed master plan;
 - (b) conditions (*coordinating agency conditions*) that must be included in an approval of the proposed master plan;
 - (c) that any approval must be for part only of the proposed master plan;
 - (d) that the master plan application be refused.
- ‘(3) Subsection (2) is subject to section 2.5B.44.

- ‘(4) To remove any doubt, it is declared that the coordinating agency may exercise any power of the participating agency that the participating agency would have exercised if it had been making the decision.

‘Subdivision 5 Local government decision stage

‘2.5B.40 Decision making period

- ‘(1) If there is a coordinating agency for the master plan application, the local government must decide the application within the later of—
- (a) 60 business days after the day the applicant gave a response to a request for information under section 2.5B.25; or
 - (b) 40 business days after the day any coordinating agency advises the local government of its decision under section 2.5B.39.
- ‘(2) If there is no coordinating agency for the master plan application, the local government must decide the application within 60 business days after—
- (a) if a request for information has been made for the application within the period (the *request period*) under section 2.5B.24(5)—the day the applicant gave a response to the request; or
 - (b) if no request for information has been made for the application within the request period—the end of the request period.

‘2.5B.41 Assessment by local government

- ‘(1) The local government must assess the master plan application—
- (a) against the following—
 - (i) the planning scheme and any other relevant local planning instrument;
 - (ii) State planning regulatory provisions;

- (iii) a regional plan not appropriately reflected in the structure plan;
 - (iv) State planning policies or parts of State planning policies not appropriately reflected in the structure plan;
 - (v) the structure plan for the master planned area;
 - (vi) other master plans applicable to the master planning unit for the proposed master plan;
 - (vii) local infrastructure agreements for the master planned area; and
- (b) having regard to the following—
- (i) the application;
 - (ii) any requests for information and responses to them;
 - (iii) submissions accepted by the local government;
 - (iv) any coordinating agency's decision;
 - (v) other master plans applicable to the master planned area.
- ‘(2) In assessing the application, the local government may give the weight it is satisfied is appropriate to a document of a type mentioned in subsection (1) that came into effect after the application was made but before the local government makes its decision on the application.

‘2.5B.42 Local government's decision generally

- ‘(1) In deciding the master plan application, the local government must—
- (a) approve all or part of the proposed master plan and include in it, in the exact form given by any coordinating agency, any coordinating agency conditions; or
 - (b) approve all or part of the proposed master plan subject to conditions decided by the local government and include in it, in the exact form given by any coordinating agency, any coordinating agency conditions; or

- (c) refuse the application.
- ‘(2) An approval under subsection (1), may be given with or without changes to the proposed master plan.
- ‘(3) The local government’s decision must be based on the assessment carried out under section 2.5B.41.
- ‘(4) For an approval under subsection (1)(a) or (b), if the coordinating agency’s decision has, under section 2.5B.39(2) stated an action that must be taken, the local government must also take the action.

‘2.5B.43 Restrictions on giving approval

- ‘(1) The local government can not approve the proposed master plan if—
 - (a) it does not comply with, or would be inconsistent with the requirements for a master plan under, section 2.5B.15; or
 - (b) it is contrary to a State planning regulatory provision; or
 - (c) it conflicts with a regional plan not appropriately reflected in the structure plan; or
 - (d) it conflicts with a State planning policy or part of a State planning policy not appropriately reflected in the structure plan; or
 - (e) it compromises the achievement of the desired environmental outcomes for—
 - (i) the local government’s planning scheme area; or
 - (ii) the master planned area, as stated in the structure plan for the area; or
 - (f) it conflicts with the structure plan area code for the master planned area; or
 - (g) it conflicts with a master plan that already applies to the master planning unit; or
 - (h) any coordinating agency has stated that the proposed master plan must not be approved.

- ‘(2) A decision to approve the proposed master plan (the *relevant plan*) must not be made before a decision has been made to approve another proposed master plan that the structure plan for the master planned area requires to be approved before the relevant plan.

Note—

See section 2.5B.8 (Content of structure plan).

- ‘(3) If a master plan application for approval of the other proposed master plan is refused, the master plan application for the relevant plan must be refused.

‘2.5B.44 Conditions

- ‘(1) A condition included in a master plan must—
- (a) be relevant to, but not an unreasonable imposition on, the development or use of premises as a consequence of the development provided for in the master plan; or
 - (b) be reasonably required for the development or use of premises as a consequence of the development provided for in the master plan.
- ‘(2) Without limiting subsection (1), a condition included in a master plan may—
- (a) limit how long a lawful use may continue or works may remain in place; or
 - (b) state that development in the master planning unit can not start until—
 - (i) other master plans for the master planning unit have taken effect; or
 - (ii) development permits for assessable development in the master planning unit have taken effect; or
 - (iii) other development in the master planning unit has been substantially started or completed; or
 - (c) relate to infrastructure if the condition is of a type that could have been imposed had the master plan application been a development application made at the same time as the master plan application; or

- (d) require compliance with an infrastructure agreement relating to the master planned area.

Note—

See also section 2.5B.58 (Modified application of provisions about infrastructure for master plan).

Editor's note—

For relevant provisions relating to development applications, see section 3.5.32, chapter 5, parts 1 and 2 and section 6.1.31.

- ‘(3) A condition imposed under subsection (2)(d) is taken to comply with subsection (1).

‘2.5B.45 Notice of decision

- ‘(1) The local government must, within 5 business days after the day the local government decides the master plan application, give written notice about the decision to—
- (a) the applicant; and
 - (b) any coordinating agency.
- ‘(2) The local government must give the coordinating agency enough copies of the notice to allow the coordinating agency to comply with subsection (4).
- ‘(3) The notice must—
- (a) state the decision and the day it was made; and
 - (b) include a copy of any master plan as approved; and
 - (c) if the application is refused, state whether—
 - (i) the local government was directed to refuse the application; and
 - (ii) the refusal was solely because of the coordinating agency's direction; and
 - (d) state the applicant's rights of appeal against the decision.
- ‘(4) The coordinating agency must give a copy of the notice to each participating agency within 5 business days after the coordinating agency receives the notice from the local government.

‘2.5B.46 Representations about conditions and other matters

- ‘(1) This section applies if the applicant makes written representations to the local government about a matter stated in the notice given under section 2.5B.45 (the *original notice*), within the applicant’s appeal period.
- ‘(2) If the matter relates to coordinating agency conditions—
 - (a) the local government must give any coordinating agency a copy of the representations; and
 - (b) the coordinating agency must advise the local government whether or not it agrees with the representations.
- ‘(3) If the relevant entity agrees with any of the representations, the local government must give a new notice under section 2.5B.45 (a *negotiated notice*) to—
 - (a) the applicant; and
 - (b) the coordinating agency.
- ‘(4) Only 1 negotiated notice may be given.
- ‘(5) The negotiated notice—
 - (a) must be given within 5 business days after the day the relevant entity agrees with the representations; and
 - (b) must be in the same form as the original notice; and
 - (c) must state the nature of the changes; and
 - (d) replaces the original notice.
- ‘(6) If the relevant entity does not agree with any of the representations, the local government must, within 5 business days after the day it decides not to agree with any of the representations, give a written notice to the applicant stating the decision on the representations.
- ‘(7) Before the relevant entity agrees to a change under this section, it must reconsider the matters considered when the original decision was made by the relevant entity, to the extent the matters are relevant.
- ‘(8) If the master plan approved by the negotiated notice is different from the master plan approved under section 2.5B.45 in a way that affects the amount of an infrastructure charge,

regulated infrastructure charge or regulated State infrastructure charge—

- (a) the local government may give the applicant an infrastructure charges notice or a regulated infrastructure charges notice that replaces an existing infrastructure charges notice or regulated infrastructure charges notice; or
- (b) the coordinating agency may give the applicant a new regulated State infrastructure charges notice that replaces an existing regulated State infrastructure charges notice.

‘(9) In this section—

relevant entity, for the representations, means—

- (a) to the extent the representations relate to coordinating agency conditions—the coordinating agency; or
- (b) otherwise—the local government.

‘2.5B.47 Applicant may suspend applicant’s appeal period

- ‘(1) If the applicant needs more time to make the written representations, the applicant may, by written notice given to the local government (the *suspension notice*), suspend the applicant’s appeal period.
- ‘(2) The applicant may act under subsection (1) only once.
- ‘(3) If the representations are not made within 20 business days after the giving of the suspension notice, the balance of the applicant’s appeal period restarts.
- ‘(4) If the representations are made within 20 business days after the giving of the suspension notice—
 - (a) if the applicant gives the local government a notice withdrawing the suspension notice—the balance of the applicant’s appeal period restarts the day after the local government receives the notice; or
 - (b) if the local government or the coordinating agency gives the applicant a notice under section 2.5B.46(8)—the balance of the applicant’s appeal period restarts the day after the applicant receives the notice; or

- (c) if the local government gives the applicant a negotiated notice for the master plan application—the applicant’s appeal period starts again the day after the applicant receives the notice.

‘2.5B.48 When approval takes effect

‘If the proposed master plan is approved, or approved subject to conditions, the plan takes effect—

- (a) if, after receiving notice of the decision under section 2.5B.45, the applicant gives the local government written notice that it will not be appealing the decision—from when the written notice is given; or
- (b) if at the end of the applicant’s appeal period, the applicant has not appealed against the decision and no notice has been given under paragraph (a)—at the end of the applicant’s appeal period; or
- (c) if an appeal is made to the court, subject to the decision of the court under section 4.1.54, when the appeal is finally decided.

‘Subdivision 6 Ministerial directions about application

‘2.5B.49 Ministerial directions to local government

- ‘(1) This section applies if the Minister considers the local government has not—
 - (a) taken an action within the period required of it under this division; or
 - (b) made a decision on representations made to it under section 2.5B.46.
- ‘(2) The minister may, by written notice, direct the local government to, within a stated reasonable period, take the action or make a decision on the representations.
- ‘(3) The notice must state the reasons for deciding to give the direction.

- '(4) The Minister must give the applicant and any coordinating agency a copy of the notice.
- '(5) The local government must comply with the direction.

'2.5B.50 Ministerial directions to applicant

- '(1) This section applies if the Minister considers the applicant has not taken an action required of it under this division.
- '(2) The Minister may, by written notice, direct the applicant to take the action within a stated reasonable period.
- '(3) The notice must state the reasons for deciding to give the direction.
- '(4) The Minister must give the local government and any coordinating agency a copy of the notice.
- '(5) The applicant must comply with the direction.

'Subdivision 7 Miscellaneous provisions

'2.5B.51 Agreements about master plan

'The applicant may enter into an agreement with an entity, including, for example, the local government or coordinating agency or participating agency, to establish the obligations, or secure the performance, of the proposed master plan or the master plan when it takes effect.

'2.5B.52 Native Title Act (Cwlth)

- '(1) Subsections (2) and (3) apply if a local government takes action under the *Native Title Act 1993* (Cwlth), section 24HA or 24KA relating to the master plan application.
- '(2) If the local government takes the action before deciding the application, the deciding of the application must not start until the action is completed.
- '(3) If the local government takes the action after the local government decision stage under subdivision 5 has started,

that stage stops the day after the action is taken and starts again the day after the action is completed.

‘2.5B.53 Substantial compliance

‘If the master plan is approved in substantial compliance with this division and has taken effect it is valid so long as any noncompliance has not—

- (a) adversely affected the awareness of the public of the existence and nature of the proposed master plan; or
- (b) restricted the opportunity of the public to make a properly made submission about the relevant master plan application; or
- (c) restricted the opportunity of a coordinating agency, a participating agency or the local government to perform their functions under this division.

‘2.5B.54 Changing application

- ‘(1) Before the master plan application is decided by the local government, the applicant may change the application by giving the local government written notice of the change.
- ‘(2) The local government must give any coordinating agency a copy of the notice as soon as practicable after receiving it.
- ‘(3) The steps under this division must be repeated for the application as changed.
- ‘(4) However, subsection (3) does not apply if—
 - (a) the change is—
 - (i) to correct or change a matter mentioned in subsection (5); or
 - (ii) in response to a request for information; and
 - (b) the local government is satisfied the change would not adversely affect the ability of a person to assess the changed application.
- ‘(5) For subsection (4)(a)(i), the matters are any of the following—

- (a) an explanatory matter about the proposed master plan;
- (b) its format or presentation;
- (c) a grammatical or mapping error in the plan;
- (d) a factual error in the plan;
- (e) a redundant or outdated term in the plan;
- (f) a mistake about the applicant's name or address or the owner of land in the master planning unit;
- (g) a mistake about the street address, property description or area of the master planning unit.

'2.5B.55 Withdrawing application

- '(1) At any time before the master plan application is decided by the local government, the applicant may withdraw the application by giving written notice of the withdrawal to the local government.
- '(2) The local government must give any coordinating agency a copy of the notice as soon as practicable after receiving it.

'2.5B.56 Additional third party advice or comment

- '(1) The local government may, at any time before it decides the master plan application, ask any person for advice or comment about the application.
- '(2) However asking for and receiving advice or comment does not extend any period under this division.
- '(3) There is no particular way advice or comment may be asked for and received and the request may be by publicly notifying the application.
- '(4) To remove any doubt, it is declared that public notification under subsection (3) does not constitute a public notice of the application by the applicant.

‘2.5B.57 Public scrutiny of application and related material

- ‘(1) The local government must keep, for the master plan application, the following documents available for inspection and purchase—
- (a) the application, including any documents lodged by the applicant in support of the application;
 - (b) any request for information, whether or not the request complied with section 2.5B.24;
 - (c) any information given to it in response to a request mentioned in paragraph (b);
 - (d) any properly made submission for the application;
 - (e) any third party advice or comment given under section 2.5B.56;
 - (f) any coordinating agency decision under section 2.5B.39.
- ‘(2) The documents mentioned in subsection (1) must be kept available for inspection and purchase from when the local government receives them until—
- (a) the application is withdrawn or lapses; or
 - (b) if paragraph (a) does not apply—the end of the last period during which an appeal may be made against a decision on the application.
- ‘(3) Subsection (1) does not apply to documents to the extent the local government is satisfied the documents contain sensitive security information.
- ‘(4) Also, the local government may remove the name, address and signature of each person who made a submission before making the submission available for inspection and purchase.

‘Division 6 Miscellaneous provisions about master plans

‘2.5B.58 Modified application of provisions about infrastructure for master plan

- ‘(1) Chapter 5, parts 1 and 3 apply for a master plan and the relevant master plan application for it—
- (a) as if a reference in the parts to a development application were a reference to the master plan application; and
 - (b) as if a reference in the parts to an applicant were a reference to a person who made the master plan application; and
 - (c) as if a reference in the parts to a development approval were a reference to an approval of a master plan; and
 - (d) as if a reference in the parts to a condition were a reference to a condition included in a master plan; and
 - (e) as if a reference in the parts to a State infrastructure provider were a reference to a coordinating agency; and
 - (f) as if a reference in the parts to an assessment manager were a reference to the local government; and
 - (g) as if a reference in the parts to a concurrence agency were a reference to a coordinating agency; and
 - (h) with other necessary changes.
- ‘(2) However, the requirement under section 5.1.25(1) to give an acknowledgment notice under section 3.2.4 does not apply.
- ‘(3) To remove any doubt, it is declared that subsection (1) does not affect the operation of chapter 5, parts 1 and 3, for a development application.

‘2.5B.59 Application to amend master plan

- ‘(1) A person may apply to amend a master plan.

- ‘(2) The application must be made and decided under division 5 in the same way as a master plan application as if the proposed amendment were a proposed master plan.
- ‘(3) However, the written consent of an owner of land in the master planning unit is not required if, in the local government’s opinion, the proposed amendment does not materially affect the land.
- ‘(4) Subject to subsection (3), the local government may accept the application even if it does not comply with the requirements applying for an application under division 5.

‘2.5B.60 Cancellation of master plan by local government

- ‘(1) The local government may cancel a master plan only if—
 - (a) all owners of land in the master planning unit have given written consent to the cancellation; and
 - (b) development under the plan has not started.
- ‘(2) In this section—
cancel does not include amend or replace.

‘Division 7 Development applications in declared master planned areas

‘2.5B.61 Application of div 7

‘This division applies for a development application, or proposed development application, for land in a declared master planned area.

‘2.5B.62 Relationship with IDAS

- ‘(1) Requirements and restrictions under this division apply for the development application as well as any relevant requirements under IDAS.
- ‘(2) If this division imposes a restriction on, or a requirement for, the granting of the development application, it can not be

granted if the restriction applies or if the requirement has not been complied with.

- ‘(3) If a provision of this division applying to the development application conflicts with a provision of IDAS, the provision of this division prevails to the extent of the inconsistency.
- ‘(4) If a provision of this division prevents the making of the proposed development application, it can not be made.

‘2.5B.63 Modified application of sch 8 if application relates to particular development

- ‘(1) This section applies for the development application if—
 - (a) the development is of a type stated in schedule 8—
 - (i) part 1, table 2, item 9 or 10; or
 - (ii) part 1, table 4, item 1A, 1B, 1C, 1D, 1E, 1F, 1G, 3, 5, 6, 8 or 9; or
 - (iii) part 1, table 5, item 1; or
 - (iv) part 2, table 4, item 1, 2 or 4; and
 - (b) the agency who would, other than for this section, have been a referral agency or the assessment manager for the development application was a coordinating agency or a participating agency stated in—
 - (i) the master plan declaration; or
 - (ii) the structure plan for the master planned area.
- ‘(2) Schedule 8 applies to the development only if a regulation provides that the schedule applies to the development.

Editor’s note—

- (a) schedule 8, part 1 (Assessable development), table 2 (Material change of use of premises)—
 - item 9 (For public passenger transport)
 - item 10 (For railways)
- (b) schedule 8, part 1, table 4 (Operating works)—
 - item 1A (For clearing native vegetation on freehold land and indigenous land)
 - item 1B (For clearing native vegetation on leasehold land used for agriculture or grazing)

- item 1C (For clearing native vegetation on land that is subject to a lease under the *Land Act 1994*, other than a lease used for agriculture or grazing)
 - item 1D (For clearing native vegetation on a road under the *Land Act 1994*)
 - item 1E (For clearing native vegetation on trust land under the *Land Act 1994*)
 - item 1F (For clearing native vegetation on unallocated State land under the *Land Act 1994*)
 - item 1G (For clearing native vegetation on land that is subject to a licence or permit under the *Land Act 1994*)
 - item 3 (For taking, or interfering with, water)
 - item 5 (For tidal work or work within a coastal management district)
 - item 6 (For constructing or raising waterway barrier works)
 - item 8 (For removal, destruction or damage of marine plants)
 - item 9 (For railways)
- (c) schedule 8, part 1, table 5 (Various aspects of development), item 1 (Development for quarrying in a watercourse or lake)
- (d) schedule 8, part 2 (Self-assessable development), table 4 (Operational work)—
- item 1 (For taking or interfering with, water)
 - item 2 (For waterway barrier works)
 - item 4 (For the removal, destruction or damage of marine plants)

‘2.5B.64 Exclusion of particular agencies as a referral agency

- ‘(1) An agency is not a referral agency for the development application to the extent that it has exercised a coordinating agency or participating agency’s jurisdiction for the structure plan or a master plan for the master planned area.

Note—

The jurisdiction arises from the relevant master planned area declaration and the structure plan. See sections 2.5B.3 and 2.5B.8.

- ‘(2) However, the agency is a referral agency for the application to the extent the development is assessable development under schedule 8 as it applies under section 2.5B.63.

‘2.5B.65 Exclusion of particular provisions about making application

- ‘(1) This section applies if there is a structure plan in force for the master planned area.
- ‘(2) The following do not apply to the making of the development application or proposed development application—
 - (a) the requirements of any regulation under section 3.2.1(5);
 - (b) a provision of any other Act that imposes a requirement for, or a restriction on, the making of the application if the requirement or restriction relates to a State resource prescribed under section 3.2.1(5);

Editor’s note—

For the prescribed State resources and the other Acts, see the *Integrated Planning Regulation 1998*, schedule 10.

- (c) a provision of any other Act that imposes a requirement for, or a restriction on, the making of the application.

Examples of provisions for paragraph (c)—

the *Water Act 2000*, section 967 and the *Vegetation Management Act 1999*, section 22A

- ‘(3) This section applies despite any other Act.

‘2.5B.66 Additional provisions for when application is properly made

- ‘(1) This section applies if the structure plan for the master planned area requires a master plan for the development.

Note—

See also section 2.5B.8(2)(b).

- ‘(2) For section 3.2.1(7), the development application is properly made only if the master plan has been approved.

Note—

See also section 2.5B.8(3)(c).

- ‘(3) The development application is a properly made application under section 3.2.1(9) only if a master plan application for the

master plan was made with or before the making of the development application.

‘2.5B.67 Provision about approval of master plan

- ‘(1) If the structure plan for the master planned area requires a master plan for the development and a proposed master plan for the development has not been approved, until the approval has been given—
 - (a) the assessment manager’s decision can not be made; and
 - (b) the decision making period for the application is suspended.
- ‘(2) If a master plan application for the master plan is refused, the development application must be refused.

‘2.5B.68 Decision must not be contrary to master plan

‘The assessment manager’s decision on the development application must not be contrary to a master plan for the master planned area.

‘2.5B.69 Assessable development requiring code assessment

- ‘(1) This section applies to any part of the development application requiring code assessment against a local planning instrument if the local government is the assessment manager.
- ‘(2) Section 3.5.13(3) and (4) do not apply to the deciding of the application.
- ‘(3) The local government must refuse the application if the local government is satisfied approving it would—
 - (a) compromise the achievement of the desired environmental outcomes for the local government’s planning scheme area; or
 - (b) conflict with the purpose of the structure plan area code for the master planned area or the purpose of the master plan area code for the master planning unit; or
 - (c) conflict with a provision of an applicable code, other than the purpose of a code mentioned in paragraph (b).

- ‘(4) Subsection (3)(a) or (b) do not apply if—
- (a) the compromise or conflict is necessary to further the outcomes of—
 - (i) if the local government’s planning scheme is in the relevant area for a State planning regulatory provision—the provision; or
 - (ii) if the planning scheme is in a designated region—the region’s regional plan; or
 - (iii) any State planning policy or part of a State planning policy; and
 - (b) the provision, plan, policy or part, is not identified in the structure plan as being appropriately reflected in the planning scheme.
- ‘(5) Subsection (3)(c) does not apply if there are sufficient grounds to justify the decision despite the conflict, having regard to—
- (a) the purpose of the code; and
 - (b) if they are not identified in the planning scheme as being appropriately reflected in the local government’s planning scheme—
 - (i) if the planning scheme is in the relevant area for a State planning regulatory provision—the provision; and
 - (ii) if the planning scheme is in a designated region—the region’s regional plan; and
 - (iii) State planning policies or parts of State planning policies.

‘2.5B.70 Assessable development requiring impact assessment

- ‘(1) This section applies to any part of the development application requiring impact assessment against a local planning instrument if the local government is the assessment manager.

- ‘(2) The local government must, when carrying out the impact assessment under section 3.5.5, have regard to all master plans for the master planned area.
- ‘(3) Section 3.5.14 does not apply to the deciding of the application.
- ‘(4) The local government must refuse the application if the local government is satisfied approving it would—
 - (a) compromise the achievement of the desired environmental outcomes for the local government’s planning scheme area; or
 - (b) conflict with the purpose of the structure plan area code for the master planned area or the master plan area code for the master planning unit; or
 - (c) conflict with a provision of the planning scheme, other than a provision mentioned in paragraphs (a) and (b).
- ‘(5) Subsection (4)(a) and (b) do not apply if—
 - (a) the compromise or conflict is necessary to further the outcomes of—
 - (i) if the planning scheme is in the relevant area for a State planning regulatory provision—the provision; or
 - (ii) if the planning scheme is in a designated region—the region’s regional plan; or
 - (iii) any State planning policy or part of a State planning policy; and
 - (b) the provision, plan, policies or part, is not identified in the structure plan as being appropriately reflected in the planning scheme.
- ‘(6) Subsection (4)(c) does not apply if there are sufficient grounds to justify the decision despite the conflict.

‘2.5B.71 Decision notice

- ‘(1) The decision notice for the development application must state—

- (a) whether the assessment manager is satisfied its decision is one to which section 2.5B.69(3) or section 2.5B.70(4) applies; and
 - (b) if the assessment manager is satisfied its decision is one to which section 2.5B.69(3)(c) or section 2.5B.70(4)(c) applies—its reasons for the decision; and
 - (c) if the assessment manager is satisfied its decision is one to which section 2.5B.69(3)(c) or section 2.5B.70(4)(c) applies—its reasons for the decision, including a statement of the sufficient grounds mentioned in section 2.5B.69(5) or 2.5B.70(6).
- ‘(2) Section 3.5.15(2)(l) does not apply for the decision notice.

‘2.5B.72 Additional restriction on starting of development

‘The development can not start until all master plans that the structure plan requires for the land have taken effect.

Note—

See section 4.3.5B(4) (Compliance with master plans).

‘2.5B.73 Notation of master plan on planning scheme

- ‘(1) This section applies if the master plan is approved and is in force.
- ‘(2) The local government must—
 - (a) note the master plan on its planning scheme; and
 - (b) give the chief executive written notice of the notation and the land to which the note relates.
- ‘(3) The note is not an amendment of the planning scheme.
- ‘(4) Failure to comply with subsection (2) does not affect the validity of the master plan.

‘Division 8 Funding of master planning

‘2.5B.74 Agreement to fund structure plan

- ‘(1) A local government may enter into an agreement with owners or occupiers of land in a declared master planned area, or another person who has an interest in the matter, to fund the preparation of a structure plan.
- ‘(2) However, the agreement may be entered into only if the local government has adopted a policy that prescribes the basis on which the funding is to be provided.

Note—

Funding for a structure plan may also be the subject of an infrastructure agreement. See section 5.2.3.

‘2.5B.75 Special charge for making a structure plan

- ‘(1) A local government may, by resolution, make and levy on an owner or occupier of rateable land in a declared master planned area a special charge on the land if—
 - (a) the charge is for making the structure plan for the area; and
 - (b) in the local government’s opinion—
 - (i) the land, or the owner or occupier of the land, has or will specially benefit from the making of the structure plan; 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 making of the structure plan.
- ‘(2) The charge may be made and levied on the bases the local government considers appropriate.
- ‘(3) However, if an amount has been paid, or is payable, to the local government under an agreement under section 2.5B.74 or an infrastructure agreement for the making of the structure plan, the local government must take into account the amount in levying the charge.

- ‘(4) The local government may fix a minimum amount of the charge.
- ‘(5) Without limiting subsection (2), the amount of the charge may vary according to the extent to which, in the local government’s opinion—
- (a) the land, or the owner or occupier of the land, has or will specially benefit from the making of the structure plan; 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 making of the structure plan.
- ‘(6) The local government’s resolution making the charge must identify—
- (a) the rateable land to which the charge applies; and
 - (b) the overall plan for the making of the structure plan.
- ‘(7) The overall plan must—
- (a) be adopted by the local government by resolution either before, or at the same time as, the local government first makes the charge; and
 - (b) identify the rateable land to which the charge applies; and
 - (c) describe the process for the making of the structure plan; and
 - (d) state the estimated cost of implementing the overall plan; and
 - (e) state the estimated time for implementing the overall plan.
- ‘(8) The local government may identify parcels of rateable land to which the charge applies in any way it considers appropriate.
- ‘(9) In this section—
- rateable land* see the *Local Government Act 1993*, section 957.

‘Part 5C State planning regulatory provisions

‘Division 1 General provisions

‘2.5C.1 Power to make State planning regulatory provision

‘The Minister may, by complying with division 2, make a State planning regulatory provision for a part of the State (a *relevant area*).

‘2.5C.2 Restriction on making State planning regulatory provision

- ‘(1) The Minister may make a State planning regulatory provision only if the Minister is satisfied the provision is necessary to—
- (a) implement a regional plan or a structure plan for a declared master planned area; or
 - (b) prevent a compromise of the implementation of—
 - (i) a proposed regional plan for a designated region or a proposed designated region; or
 - (i) a structure plan or proposed structure plan for a master planned area or a proposed master planned area; or
 - (c) provide for—
 - (i) a regulated State infrastructure charges schedule for a master planned area, under section 5.3.2; or
 - (ii) a regulated infrastructure charge for the supply of trunk infrastructure, under section 5.1.5.
- ‘(2) However, the Minister may also make a State planning regulatory provision if the Minister is satisfied—
- (a) there is a significant risk of serious environmental harm or serious adverse cultural, economic or social conditions occurring in a planning scheme area; and

- (b) giving a direction under section 2.3.2 would not be the most appropriate way to address the risk.

Note—

Section 6.8.12 (Transition of validated planning documents to master planning documents) also allows the making of State planning regulatory provisions.

'2.5C.3 Content of State planning regulatory provision

'A State planning regulatory provision may—

- (a) declare development to be assessable or self-assessable development; and
- (b) require impact or code assessment, or both impact and code assessment, for assessable development, including assessable development mentioned in paragraph (a); and
- (c) include a code for IDAS, or other criteria for the assessment of development applications; and
- (d) otherwise regulate development by, for example—
 - (i) stating aspects of development that may not occur in stated localities; or
 - (ii) stating aspects of development that may not occur in stated localities until—
 - (A) a stated structure plan within a planning scheme or another stated planning instrument has been made; or
 - (B) a stated master plan has been approved; or
 - (C) a stated development application has been approved; and
- (e) state transitional arrangements for development applications or master plan applications affected by the provision; and
- (f) provide for a matter mentioned in section 2.5C.2.

‘2.5C.4 State interest

‘For this Act, a State planning regulatory provision is taken to be a State interest.

‘2.5C.5 Relationship with other planning instruments

- ‘(1) If there is an inconsistency between a State planning regulatory provision and another planning instrument, the State planning regulatory provision prevails to the extent of the inconsistency.
- ‘(2) Subject to subsection (1), a State planning regulatory provision does not amend the other planning instrument.

‘2.5C.6 Status of State planning regulatory provision

- ‘(1) A State planning regulatory provision is a statutory instrument under the *Statutory Instruments Act 1992* and has the force of law.
- ‘(2) A State planning regulatory provision is not subordinate legislation.

‘2.5C.7 Particular State planning regulatory provisions to be ratified by Parliament

- ‘(1) This section applies to a State planning regulatory provision made to—
 - (a) implement a regional plan; or
 - (b) prevent a compromise of the implementation of a proposed regional plan for a designated region or a proposed designated region.
- ‘(2) The following Minister must table a copy of the provision in the Legislative Assembly within 14 sitting days after the making of the provision—
 - (a) if the provision is made for a purpose mentioned in subsection (1)(a) or (b)—the regional planning Minister;
 - (b) otherwise—the Minister.

- ‘(3) If the provision is not ratified by Parliament within 14 sitting days after the day the copy is tabled, the provision ceases to have effect.

‘2.5C.8 State planning regulatory provisions that are subject to disallowance

- ‘(1) This section applies to a State planning regulatory provision made because the Minister was satisfied there is a significant risk of serious environmental harm or serious adverse cultural, economic or social conditions occurring in a planning scheme area.
- ‘(2) The *Statutory Instruments Act 1992*, sections 49, 50 and 51, apply to the provision as if it were subordinate legislation.

Editor’s note—

Statutory Instruments Act 1992, sections 49 (Subordinate legislation must be tabled), 50 (Disallowance) and 51 (Limited saving of operation of subordinate legislation that ceases to have effect)

‘Division 2 Making State planning regulatory provisions

‘2.5C.9 Notice of and public consultation on draft State planning regulatory provision

- ‘(1) The Minister must prepare a draft of any proposed State planning regulatory provision.
- ‘(2) When the Minister has prepared the draft State planning regulatory provision, the Minister must publish a notice—
- (a) in the gazette; and
 - (b) at least once in a newspaper circulating in the relevant area.
- ‘(3) The notice must state the following—
- (a) that the draft State planning regulatory provision is available for inspection and purchase;
 - (b) where copies of the draft State planning regulatory provision are available for inspection and purchase;

- (c) a contact telephone number for information about the draft State planning regulatory provision;
 - (d) that written submissions about any aspect of the draft State planning regulatory provision may be given to the Minister by any person;
 - (e) the period (the *consultation period*) during which the submissions may be made;
 - (f) the requirements for a properly made submission.
- ‘(4) The consultation period must be for at least 30 business days after the day the notice is gazetted.
- ‘(5) The Minister must give a copy of the notice and the draft State planning regulatory provision to each local government whose local government area includes the relevant area.
- ‘(6) The Minister may give a copy of the notice and the draft State planning regulatory provision to any other entity the Minister considers appropriate.
- ‘(7) For all of the consultation period, the Minister must keep a copy of the draft State planning regulatory provision available for inspection and purchase.
- ‘(8) The Minister may, during the consultation period, amend, replace or remove the draft State planning regulatory provision, other than to change the relevant area.

‘2.5C.10 Making State planning regulatory provision

- ‘(1) The Minister must consider every properly made submission about the draft State planning regulatory provision.
- ‘(2) After the Minister has acted under subsection (1), the Minister must—
- (a) make the State planning regulatory provision as provided for in the draft State planning regulatory provision as published; or
 - (b) make the State planning regulatory provision and include any amendments of the draft State planning regulatory provision the Minister considers appropriate; or

- (c) decide not to make a State planning regulatory provision as mentioned in paragraph (a) or (b).

‘2.5C.11 Notice and taking effect of State planning regulatory provision

- ‘(1) After the Minister has made the State planning regulatory provision, the Minister must publish a notice about the making of the provision—
 - (a) in the gazette; and
 - (b) at least once in a newspaper circulating in the region.
- ‘(2) The notice must state—
 - (a) the day the State planning regulatory provision was made; and
 - (b) where a copy of the provision may be inspected and purchased.
- ‘(3) Subject to sections 2.5C.7 and 2.5C.8, the State planning regulatory provision takes effect on and from—
 - (a) the day the making of the State planning regulatory provision is gazetted; or
 - (b) if a later day for the commencement of the State planning regulatory provision is stated in the State planning regulatory provision—the later day.

‘Division 3 Effect of drafts and draft amendments

‘2.5C.12 Effect of draft State planning regulatory provision and draft amendments

- ‘(1) This section applies to—
 - (a) a draft State planning regulatory provision published under division 2, as amended from time to time under section 2.5C.9(8) (the *draft provision*); or

- (b) a draft State planning regulatory provision as amended by a draft amendment of the provision under division 4 (also the *draft provision*).
- ‘(2) The draft provision has effect as if it were a State planning regulatory provision until the earlier of the following happens—
- (a) a decision to make a State planning regulatory provision is made under section 2.5C.10(2)(a) or (b) relating to the draft provision and the State planning regulatory provision takes effect under section 2.5C.11(3);
 - (b) a decision not to make a State planning regulatory provision is made under section 2.5C.10(2)(c) relating to the draft provision.

‘Division 4 **Amendment or repeal of State planning regulatory provisions**

‘2.5C.13 Minor amendments

- ‘(1) The Minister may make a minor amendment of a State planning regulatory provision.
- ‘(2) If the Minister makes the amendment, the Minister must publish a notice about the making of the amendment—
 - (a) in the gazette; and
 - (b) at least once in a newspaper circulating in the relevant area.
- ‘(3) The notice must state—
 - (a) the day the amendment was made; and
 - (b) where a copy of the State planning regulatory provision, as amended, may be inspected and purchased.

‘2.5C.14 Other amendments

‘The Minister may make an amendment, other than a minor amendment, of a State planning regulatory provision only if

the procedures under division 2 for the making of a State planning regulatory provision have been followed, as if—

- (a) a reference in the division to making a State planning regulatory provision were a reference to the making of the amendment; and
- (b) a reference in the division to a draft State planning regulatory provision were a reference to the amendment; and
- (c) with other necessary changes.

‘2.5C.15 Repeals

- ‘(1) The Minister may repeal a State planning regulatory provision by publishing a notice in—
 - (a) the gazette; and
 - (b) a newspaper circulating in the relevant area.
- ‘(2) The notice must state—
 - (a) the name of the State planning regulatory provision being repealed; and
 - (b) the relevant area for the State planning regulatory provision; and
 - (c) that the State planning regulatory provision is repealed.
- ‘(3) The repeal has effect on and from—
 - (a) the day the notice is gazetted; or
 - (b) if a later day for the repeal is stated in the notice—the later day.
- ‘(4) The Minister must give each local government whose local government area includes the relevant area a copy of the notice.’.

155 Amendment of s 2.6.7 (Matters the Minister must consider before designating land)

- (1) Section 2.6.7(2)(c) and (d)—
omit, insert—

- ‘(c) for land in a designated region—the region’s regional plan; and
 - (d) for land in a relevant area for a State planning regulatory provision—the provision; and
 - (e) for land in a declared master planned area—any master plans for the area; and
 - (f) each relevant planning scheme.’.
- (2) Section 2.6.7(3)(e) and (f)—
renumber as section 2.6.7(3)(f) and (g).
- (3) Section 2.6.7(3)—
insert—
- ‘(e) the process has been carried out under schedule 1A, section 8, for a structure plan for a declared master planned area that includes the community infrastructure; or’.

156 Amendment of s 3.1.1 (What is IDAS)

Section 3.1.1—

insert—

‘*Note*—

Chapter 2, part 5B, has particular provisions for development applications in declared master planned areas.’.

157 Amendment of s 3.1.2 (Development under this Act)

Section 3.1.2(3), ‘To the extent’—

omit, insert—

‘Subject to section 2.5B.9, to the extent’.

158 Amendment of s 3.1.3 (Code and impact assessment for assessable development)

Section 3.1.3(1)—

insert—

Note—

See also chapter 2, part 5B (Master planning for particular areas of State interest).'

159 Amendment of s 3.1.4 (When is a development permit necessary)

(1) Section 3.1.4(3)(b)—

omit, insert—

‘(b) exempt development need not comply with codes, master plans for declared master planned areas or planning instruments, other than a State planning regulatory provision.’.

(2) Section 3.1.4(4), after ‘planning instrument’—

insert—

‘, a master plan for a declared master planned area’.

160 Amendment of s 3.1.6 (Preliminary approval may override a local planning instrument)

Section 3.1.6(1)—

insert—

Note—

A preliminary approval to which this section applies may be made for a master planned area only if so permitted under the structure plan for the area. See section 2.5B.4 (Restriction on particular development applications in master planned area).'

161 Amendment of s 3.1.8 (Referral agencies for development applications)

Section 3.1.8(1)—

insert—

Note—

For declared master planned areas, see however section 2.5B.64 (Exclusion of particular agencies as a referral agency).'

162 Amendment of s 3.2.1 (Applying for development approval)

(1) Section 3.2.1(7)(f) and (10)(b), from ‘the regulatory provisions’—

omit, insert—

‘a State planning regulatory provision.’

(2) Section 3.2.1(7)—

insert—

Note—

For particular provisions relating to a declared master planned area, see also section 2.5B.65 (Exclusion of particular provisions about making application) and 2.5B.66 (Additional provisions for when application is properly made).’.

163 Amendment of s 3.3.15 (Referral agency assesses application)

Section 3.3.15(1)(b)(ii)(B)—

omit, insert—

‘(B) for the planning scheme of a local government in the relevant area for a State planning regulatory provision—the provision;

(C) for the planning scheme of a local government in a designated region—the region’s regional plan; and’.

164 Amendment of s 3.3.17 (How a concurrence agency may change its response)

Section 3.3.17(2), after ‘amended response’—

insert—

‘or the Minister has given the concurrence agency a direction under section 3.6.2’.

165 Amendment of s 3.5.4 (Code assessment)

Section 3.5.4(2)(c)(ii)—

omit, insert—

- ‘(ii) for the planning scheme of a local government in the relevant area for a State planning regulatory provision—the provision; and
- (iii) for the planning scheme of a local government in a designated region—the region’s regional plan; and’.

166 Amendment of s 3.5.5 (Impact assessment)

Section 3.5.5(2)(c)(ii)—

omit, insert—

- ‘(ii) for the planning scheme of a local government in the relevant area for a State planning regulatory provision—the provision; and
- (iii) for the planning scheme of a local government in a designated region—the region’s regional plan;

Note—

For declared master planned areas, see also section 2.5B.70 (Assessable development requiring impact assessment).’.

167 Amendment of s 3.5.5A (Assessment for s 3.1.6 preliminary approvals that override a local planning instrument)

Section 3.5.5A(2)(e)(ii)—

omit, insert—

- (ii) for the planning scheme of a local government in the relevant area for a State planning regulatory provision—the provision; and
- (iii) for the planning scheme of a local government in a designated region—the region’s regional plan;’.

168 Amendment of s 3.5.11 (Decision generally)

- (1) Section 3.5.11(4A), from ‘the regulatory provisions’—

omit, insert—

‘a State planning regulatory provision.’.

- (2) Section 3.5.11(6)—

insert—

Note—

For declared master planned areas, see also section 2.5B.68 (Decision must not be contrary to master plan).’.

169 Amendment of s 3.5.13 (Decision if application requires code assessment)

Section 3.5.13(3)(b)(ii)—

omit, insert—

‘(ii) for the planning scheme of a local government in the relevant area for a State planning regulatory provision—the provision; and

(iii) for the planning scheme of a local government in a designated region—the region’s regional plan.

Note—

For declared master planned areas, see also section 2.5B.69 (Assessable development requiring code assessment).’.

170 Amendment of s 3.5.14 (Decision if application requires impact assessment)

Section 3.5.14(4)(b)—

omit, insert—

‘(b) for the planning scheme of a local government in the relevant area for a State planning regulatory provision—the provision;

(c) for the planning scheme of a local government in a designated region—the region’s regional plan.

Note—

For declared master planned areas, see also section 2.5B.70 (Assessable development requiring impact assessment).’.

171 Amendment of s 3.5.14A (Decision if application under s 3.1.6 requires assessment)

Section 3.5.14A(2)(c)(ii)—

omit, insert—

- ‘(ii) for the planning scheme of a local government in the relevant area for a State planning regulatory provision—the provision;
- (iii) for the planning scheme of a local government in a designated region—the region’s regional plan.’.

172 Amendment of s 3.5.15 (Decision notice)

Section 3.5.15(2)(k)(iii)(B)—

omit, insert—

- ‘(B) for the planning scheme of a local government in the relevant area for a State planning regulatory provision—the provision;
- (C) for the planning scheme of a local government in a designated region—the region’s regional plan;

Note—

For declared master planned areas, see also section 2.5B.71 (Decision notice).’.

173 Amendment of s 3.5.17 (Changing conditions and other matters during the applicant’s appeal period)

Section 3.5.17—

insert—

- ‘(8) If the development approved by the negotiated decision notice is different from the development approved in the decision notice in a way that affects the amount of a regulated State

infrastructure charge, the relevant State infrastructure provider may give the applicant a new regulated State infrastructure charges notice under section 5.3.4 to replace the original notice.’.

174 Amendment of s 3.5.20 (When development may start)

Section 3.5.20(1)—

insert—

‘*Note—*

For declared master planned areas, see also section 2.5B.72 (Additional restriction on starting of development).’.

175 Amendment of s 3.5.27 (Certain approvals to be recorded on planning scheme)

Section 3.5.27(2)—

insert—

‘*Note—*

For declared master planned areas, see also section 2.5B.73 (Notation of master plan on planning scheme).’.

176 Amendment of s 3.5.31 (Conditions generally)

(1) Section 3.5.31—

insert—

‘(c) require compliance with an infrastructure agreement relating to the land.’.

(2) Section 3.5.31—

insert—

‘(2) A condition imposed under subsection (1)(c) is taken to comply with section 3.5.30.’.

177 Replacement of ch 3, pt 6, div 1

Chapter 3, part 6, division 1—

omit, insert—

‘Division 1 Ministerial directions

‘3.6.1 Ministerial directions to assessment managers

- ‘(1) The Minister may, by written notice, give a direction to an assessment manager for a development application, in any of the following circumstances—
- (a) if—
 - (i) the assessment manager has not decided the application; and
 - (ii) the development involves a State interest; and
 - (iii) the matter the subject of the direction is not within the jurisdiction of a concurrence agency for the application;
 - (b) if the assessment manager has not decided the application by the end of the decision making period, including any extension of the decision making period;
 - (c) if the assessment manager has not made a decision on representations made to the assessment manager under section 3.5.17;
 - (d) if the assessment manager has not otherwise complied with the period for taking an action under IDAS.
- ‘(2) The direction may require the assessment manager—
- (a) if subsection (1)(a) applies—to take one or more of the following actions—
 - (i) to refuse the application;
 - (ii) to attach to any development approval the conditions stated in the notice;
 - (iii) to approve only part of the application;
 - (iv) to give a preliminary approval only;
 - (v) for an application for a preliminary approval to which section 3.1.6 applies—
 - (A) to approve all or some of the variations sought; or

- (B) subject to section 3.1.6(3) and (5)—to approve different variations from those sought; or
 - (C) to refuse the variations sought; or
 - (b) if subsection (1)(b) applies—to decide the development application within a stated period of at least 20 business days; or
 - (c) if subsection (1)(c) applies—to decide whether to give a negotiated decision notice within a stated period of at least 20 business days; or
 - (d) if subsection (1)(d) applies—to take the action within the reasonable period stated in the direction.
- ‘(3) The notice must state—
- (a) the reasons for deciding to give the direction; and
 - (b) for a direction under subsection (2)(a)—the State interest giving rise to the direction.
- ‘(4) The Minister must give the applicant and any referral agencies a copy of the notice.
- ‘(5) The assessment manager must comply with the direction.
- ‘(6) For an appeal under any of sections 4.1.27 to 4.1.29 the Minister’s direction under subsection (2)(a) is taken to be a concurrence agency’s response and the chief executive is taken to be a co-respondent.

‘3.6.2 Ministerial directions to concurrence agencies

- ‘(1) The Minister may, by written notice, give a direction to a concurrence agency if the Minister is satisfied—
- (a) there are inconsistencies between 2 or more concurrence agency responses; or
 - (b) that the concurrence agency’s response contains a condition that does not comply with section 3.5.30 or 3.5.32; or
 - (c) that the concurrence agency’s response is not within the limits of its jurisdiction; or

- (d) that the concurrence agency has not assessed an application under the Act; or
 - (e) that the concurrence agency has not complied with the reasonable period for taking an action under IDAS.
- ‘(2) The direction may require the concurrence agency—
- (a) if subsection (1)(a) applies—to reissue the concurrence agency’s response to address the inconsistency; or
 - (b) if subsection (1)(b) applies—to reissue the concurrence agency’s response without the condition or with a modified condition; or
 - (c) if subsection (1)(c) applies—to reissue the concurrence agency’s response in a stated way to ensure the concurrence agency’s response is within the limits of its jurisdiction; or
 - (d) if subsection (1)(d) applies—to reissue the concurrence agency’s response in a stated way to ensure the concurrence agency has assessed the application under the Act; or
 - (e) if subsection (1)(e) applies—to take the action within the reasonable period stated in the direction.
- ‘(3) The notice must state the reasons for deciding to give the direction.
- ‘(4) The Minister must give the assessment manager, the applicant and any other referral agency a copy of the notice.
- ‘(5) The concurrence agency must comply with the direction.

Note—

If the Minister gives a direction under this section, the concurrence agency may give or amend its response after the end of the assessment period for the application. See section 3.3.17(2).

‘3.6.3 Ministerial directions to applicants

- ‘(1) The Minister may, by written notice, give a direction to an applicant if the applicant has not complied with a stage of IDAS or an aspect of a stage of IDAS.

- ‘(2) The Minister may, by written notice, direct the applicant to, within a stated reasonable period, take stated action relating to the stage or aspect to ensure compliance with IDAS.
- ‘(3) The notice must state the reasons for deciding to give the direction.
- ‘(4) The notice may also state the point in the IDAS process from which the process must restart.
- ‘(5) The Minister must give the assessment manager and the referral agencies a copy of the notice.
- ‘(6) The applicant must comply with the direction.
- ‘(7) If the direction states the point in the IDAS process from which the process must restart and the applicant complies with the direction, the process must, for the application, restart at that point.’.

178 Amendment of s 3.6.7 (Effect of call in)

- (1) Section 3.6.7(4), ‘Minister’—
omit, insert—
‘Minister for a designated region’.
- (2) Section 3.6.7(5), (6) and (8), ‘Minister’—
omit, insert—
‘Minister for the designated region’.
- (3) Section 3.6.7(5)(a) and (b)—
omit, insert—
 - ‘(a) publication of a notice under section 2.5A.13 about the designated region’s draft regional plan; or
 - (b) publication of a notice under section 2.5A.14 about the designated region’s regional plan.’.
- (4) Section 3.6.7(8), from ‘to the SEQ regional plan’—
omit, insert—
‘designated region’s regional plan or a planning scheme amendment reflecting the designated region’s regional plan.’.

179 Amendment of s 4.1.21 (Court may make declarations)

Section 4.1.21(1)(b), after ‘planning instruments’—
insert—
‘and master plans’.

180 Amendment of s 4.1.23 (Costs)

- (1) Section 4.1.23(2)(g), after ‘development application’—
insert—
‘or master plan application’.
- (2) Section 4.1.23(2)(g), after ‘information request’—
insert—
‘, or to a request for information for the master plan application’.
- (3) Section 4.1.23(2)(h) and (i), after ‘local government’—
insert—
‘, or a coordinating agency for a master plan application.’.

181 Amendment of s 4.1.26 (Evidence of planning schemes)

- (1) Section 4.1.26, heading, after ‘schemes’—
insert—
‘**or master plans**’.
- (2) Section 4.1.26(1), after ‘planning scheme’—
insert—
‘or master plan’.
- (3) Section 4.1.26(2), ‘scheme or part’—
omit, insert—
‘scheme or plan, or part of the scheme or plan’.

182 Insertion of new s 4.1.30A

Chapter 4, part 1, division 9—

insert—

‘4.1.30A Appeals by applicant for approval of a proposed master plan

- ‘(1) A person who has applied for an approval of a proposed master plan may appeal to the court against—
- (a) the refusal, or the refusal in part, to give the approval; or
 - (b) a matter stated in the notice of decision about the application; or
 - (c) a deemed refusal.
- ‘(2) An appeal under subsection (1)(a) or (b) must be started within 20 business days (the *applicant’s appeal period*) after the day the applicant is given the notice of the decision.
- ‘(3) An appeal under subsection (1)(c) may be started at any time after the last day a decision on the matter should have been made.’.

183 Replacement of s 4.1.36 (Appeals about infrastructure charges)

Section 4.1.36—

omit, insert—

‘4.1.36 Appeals about particular infrastructure charges

- ‘(1) This section applies to a person who has been given, and is dissatisfied with, an infrastructure charges notice or a regulated State infrastructure charges notice.
- ‘(2) The person may appeal to the court against the notice.
- ‘(3) The appeal must be started within 20 business days after—
- (a) if the notice is given because of a development approval or master plan approval—the day the applicant is given notice of the decision about the approval; or
 - (b) otherwise—the day the notice is given to the person.
- ‘(4) An appeal under this section may only be about—
- (a) whether a charge in the notice is so unreasonable that no reasonable relevant local government, State

infrastructure provider or coordinating agency could have imposed it; or

(b) an error in the calculation of the charge.

‘(5) To remove any doubt, it is declared that an appeal under this section can not be about the methodology used to establish the charge in the relevant infrastructure charges schedule or regulated State infrastructure charges schedule.’

184 Amendment of s 4.1.42 (Notice of appeal to other parties (div 9))

(1) Section 4.1.42(1)(b) to (e)—

renumber as section 4.1.42(1)(f) to (i).

(2) Section 4.1.42(1)—

insert—

‘(b) if the appeal is under section 4.1.30A—the local government and coordinating agency for the application for approval of the master plan; or

(c) if the appeal is under section 4.1.33A—the entity that made the decision about the application to change the conditions; or

(d) if the appeal is under section 4.1.33B—the local government; or

(e) if the appeal is under section 4.1.36—the entity that gave the notice the subject of the appeal; or’.

185 Amendment of s 4.1.43 (Respondent and co-respondents for appeals under div 8)

Section 4.1.43(9)(b), ‘section 3.6.3’—

omit, insert—

‘section 3.6.1(1)(a)’.

186 Amendment of s 4.1.50 (Who must prove case)

(1) Section 4.1.50(1), after ‘development application’—

insert—

‘, or a person who has applied for approval of a proposed master plan’.

- (2) Section 4.1.50(4), ‘4.1.30 or 4.1.31’—

omit, insert—

‘4.1.30, 4.1.31, 4.1.33A, 4.1.33B or 4.1.36’.

187 Amendment of s 4.1.52 (Appeal by way of hearing anew)

- (1) Section 4.1.52(2), after ‘development application’—

insert—

‘, or is a person who has applied for approval of a proposed master plan’.

- (2) Section 4.1.52—

insert—

- ‘(4) Further, if the appellant is a person who has applied for approval of a proposed master plan, the court is not prevented from considering and making a decision about a ground of appeal (based on any coordinating agency’s response) merely because this Act required the local government to refuse the application or include conditions in any approval of a master plan.’.

188 Amendment of s 4.2.7 (Jurisdiction of tribunals)

- (1) Section 4.2.7(2)(b)—

renumber as section 4.2.7(2)(c).

- (2) Section 4.2.7(2)—

insert—

‘(b) an error in the calculation of a charge in an infrastructure charges notice or a regulated State infrastructure charges notice; or’.

189 Replacement of s 4.3.5A (Compliance with the SEQ regional plan)

Section 4.3.5A—

omit, insert—

‘4.3.5A Compliance with State planning regulatory provisions

‘Subject to chapter 1, part 4, a person must not carry out development in the relevant area for a State planning regulatory provision if the development is contrary to a State planning regulatory provision for the area.

Maximum penalty—1665 penalty units.

‘4.3.5B Compliance with master plans

‘(1) This section is subject to chapter 1, part 4.

‘(2) This section does not apply to development carried out on designated land in accordance with the relevant designation.

‘(3) A person must not carry out development in a declared master planned area if the carrying out of the development is contrary to a master plan for the area.

Maximum penalty—1665 penalty units.

‘(4) A person must not carry out development in a declared master planned area if the structure plan for the area requires that the development can not be carried out in the master planned area until there is a master plan for the development.

Maximum penalty—1665 penalty units.’.

190 Amendment of s 4.3.6 (General exemption for emergency development or use)

Section 4.3.6(1), ‘Sections 4.3.1, 4.3.3, 4.3.4 and 4.3.5’—

omit, insert—

‘Sections 4.3.1 and 4.3.3 to 4.3.5B’.

191 Amendment of s 4.3.7 (Giving a false or misleading document)

(1) Section 4.3.7(2), after ‘concurrence agency’—

insert—

‘, or to a local government to which a master plan application has been made,’.

- (2) Section 4.3.7(3), after ‘concurrence agency’—

insert—

‘or local government’.

192 Amendment of s 4.3.13 (Specific requirements of enforcement notice)

- (1) Section 4.3.13(1)(e) and (2)(a), ‘or a code—

omit, insert—

‘, a code or a master plan’.

- (2) Section 4.3.13(1)(f), after ‘development permit’—

insert—

‘or make a master plan application’.

193 Amendment of s 4.3.16 (Processing application required by enforcement or show cause notice)

Section 4.3.16, ‘preliminary approval or development permit’—

omit, insert—

‘preliminary approval or development permit or makes a master plan application’.

194 Amendment of s 4.3.20 (Magistrates Court may make orders)

- (1) Section 4.3.20(3)(d), ‘or a code’—

omit, insert—

‘, a code or a master plan’.

- (2) Section 4.3.20(3)(e), after ‘development permit’—

insert—

‘or make a master plan application’.

195 Amendment of s 4.4.13 (Evidentiary aids generally)

- (1) Section 4.4.13(d) and (e)—
renumber as section 4.4.13(e) and (f).
- (2) Section 4.4.13—
insert—
‘(d) on a stated day, or during a stated period—
 - (i) there was or was not a master plan for stated land or development; or
 - (ii) a stated condition was included in a master plan;’.

196 Amendment of s 5.1.1 (Purpose of pt 1)

Section 5.1.1—

insert—

‘*Note*—

For declared master planned areas, see also section 2.5B.58 (Modified application of provisions about infrastructure for master plan).’.

197 Amendment of s 5.1.5 (Making or amending infrastructure charges schedules)

- (1) Section 5.1.5(1)(b)—
omit, insert—
‘(b) the process stated in schedule 1.’.
- (2) Section 5.1.5(2)—
omit.
- (3) Section 5.1.5(3)—
renumber as section 5.1.5(2).
- (4) Section 5.1.5(4)—
omit, insert—
‘(3) The Minister may seek advice or comment from the Queensland Competition Authority about—

- (a) the consideration of State interests under schedule 1, section 11; or
 - (b) another matter relating to an infrastructure charges schedule.
- ‘(4) However, the seeking of advice or comment under subsection (3) does not stop the process under schedule 1.’.

198 Amendment of s 5.1.15 (Regulated infrastructure charge)

Section 5.1.15, ‘A regulation may prescribe’—

omit, insert—

‘A regulation or State planning regulatory provision may provide for’.

199 Amendment of s 5.1.16 (Adopting and notifying regulated infrastructure charges schedule)

Section 5.1.16(2), ‘prescribed under section 5.1.15 for the charge’—

omit, insert—

‘provided for under a regulation or State planning regulatory provision’.

200 Amendment of s 5.2.3 (Matters certain infrastructure agreements must contain)

- (1) Section 5.2.3, heading—

omit, insert—

‘5.2.3 Content of infrastructure agreements’.

- (2) Section 5.2.3—

insert—

- ‘(2) To remove any doubt, it is declared that an infrastructure agreement may—
- (a) include matters that are not within the jurisdiction of a public sector entity that is a party to the agreement; and
 - (b) relate to—

- (i) the making of a structure plan for a declared master planned area; or
- (ii) master plans for a master planned area.

‘(3) However—

- (a) if the public sector entity is a local government; and
- (b) it is proposed to include in the agreement a provision for payment to the local government for making the structure plan;

the amount payable must take into account any amounts paid or payable to the local government under chapter 2, part 5B, division 8, for making the structure plan.’.

201 Amendment of s 5.2.6 (Exercise of discretion unaffected by infrastructure agreements)

Section 5.2.6, from ‘about’—

omit, insert—

‘about—

- (a) a structure plan or proposed structure plan; or
- (b) a master plan or an application for approval of a master plan; or
- (c) an existing or future development application.’.

202 Amendment of s 5.2.7 (Infrastructure agreements prevail if inconsistent with development approval)

(1) Section 5.2.7, heading, ‘development approval’—

omit, insert—

‘**particular instruments**’.

(2) Section 5.2.7(1), after ‘development approval’—

insert—

‘or master plan’.

(3) Section 5.2.7(2), ‘or a regulated infrastructure charges notice’—

omit, insert—

‘, a regulated State infrastructure charges notice or a regulated infrastructure charges notice’.

203 Insertion of new ch 5, pt 3

Chapter 5—

insert—

‘Part 3 Funding of State infrastructure in master planned areas

‘5.3.1 Purpose of pt 3

‘The purpose of this part is to—

- (a) seek to integrate land use and State infrastructure plans for master planned areas; and
- (b) establish an infrastructure funding framework for State infrastructure in master planned areas; and
- (c) integrate State infrastructure providers into the framework.

Note—

See also section 2.5B.58 (Modified application of provisions about infrastructure for master plan).

‘5.3.2 Power to make regulated State infrastructure charges schedule for master planned area

- ‘(1) A structure plan may include, or a State planning regulatory provision may provide for, a regulated State infrastructure charges schedule for a master planned area.
- ‘(2) The Minister may seek advice or comment from the Queensland Competition Authority about a regulated State infrastructure charges schedule for a master planned area.

Note—

An SEQ regional plan major development area under chapter 6, part 8, is a master planned area for this section. See section 6.8.8(2).

‘5.3.3 Content of regulated State infrastructure charges schedule

- ‘(1) A regulated State infrastructure charges schedule for a master planned area must state—
 - (a) the infrastructure network that services, or is planned to service, the area; and
 - (b) a charge for the supply of the State infrastructure for the area (a *regulated State infrastructure charge*); and
 - (c) the development for which the charge may be levied.
- ‘(2) A regulated State infrastructure charges schedule may also state a matter related to a matter mentioned in subsection (1).

‘5.3.4 Regulated State infrastructure charges notice

- ‘(1) A notice requiring the payment of a regulated State infrastructure charge (a *regulated State infrastructure charges notice*) must state each of the following—
 - (a) the amount of the charge;
 - (b) the land to which the charge applies;
 - (c) when the charge is payable;
 - (d) the State infrastructure network for which the charge has been stated.
- ‘(2) If the notice is given as a result of a development approval—
 - (a) the relevant State infrastructure provider must give the notice to the applicant at the same time as the concurrence agency’s response is given to the assessment manager; and
 - (b) the charge is not recoverable unless the entitlements under the development approval are exercised; and
 - (c) the notice lapses if the approval stops having effect.
- ‘(3) If the notice is not given as a result of a development approval, the relevant State infrastructure provider must give the notice to the owner of the land.

- ‘(4) The amount of a regulated State infrastructure charge must take account of any relevant infrastructure charge for State infrastructure.

Example—

an infrastructure charge relating to the local function of State-controlled roads

‘5.3.5 When regulated State infrastructure charge is payable

‘A regulated State infrastructure charge is payable by the recipient of the relevant State infrastructure charges notice—

- (a) if the charge applies to reconfiguring a lot that is assessable development—before the local government approves the plan of subdivision under chapter 3, part 7; or
- (b) if the charge applies to building work that is assessable development—before the certificate of classification for the building work is issued; or
- (c) if the charge applies to a material change of use—before the change of use happens; or
- (d) otherwise—on the day stated in the regulated State infrastructure charges notice.

‘5.3.6 Application of regulated State infrastructure charge

‘A regulated State infrastructure charge levied and collected for a network of State infrastructure must be used to provide infrastructure for the network.

‘5.3.7 Accounting for regulated State infrastructure charges

‘To remove any doubt, it is declared that a regulated State infrastructure charge levied and collected by a State infrastructure provider need not be held in trust.

‘5.3.8 Infrastructure agreements about, and alternatives to paying regulated State infrastructure charges

‘Despite sections 5.3.4 and 5.3.5, a person to whom a regulated State infrastructure charges notice has been given and the State infrastructure provider may enter into an infrastructure agreement for the charge, including, for example, that—

- (a) the charge may be paid at a different time from the time stated in the notice, and whether it may be paid by instalments; or
- (b) whether the State infrastructure may be supplied instead of paying all or part of the charge; or
- (c) land in fee simple may be given instead of paying the charge or part of the charge; or
- (d) other infrastructure, or contributions to other infrastructure, may be provided instead of paying the charge or part of the charge.

‘5.3.9 Recovery of regulated State infrastructure charges

- ‘(1) A regulated State infrastructure charge is a charge in favour of the State on the land to which the charge applies.
- ‘(2) The *Local Government Act 1993*, section 1018 and chapter 14, part 7, apply for the charge—
 - (a) as if it were a rate under that Act; and
 - (b) as if a reference in the provisions to an overdue rate were a reference to the charge; and
 - (c) as if a reference in the provisions to a local government were a reference to the State; and
 - (d) as if a reference in the provisions to the chief executive officer of a local government were a reference to the executive officer of the State infrastructure provider that gave the relevant regulated State infrastructure charges notice; and
 - (e) with other necessary changes.’.

Editor's note—

Local Government Act 1993, section 1018 (Overdue rates may bear interest) and chapter 14, part 7 (Recovery of rates)

204 Amendment of s 5.4.4 (Limitations on compensation under ss 5.4.2 and 5.4.3)

Section 5.4.4(1)—

insert—

‘(i) is about any of the matters comprising a structure plan for a declared master planned area.’.

205 Amendment of s 5.5.1 (Local government may take or purchase land)

(1) Section 5.5.1(1)(a), after ‘planning scheme’—

insert—

‘or to achieve any of the outcomes in a structure plan made by the local government’.

(2) Section 5.5.1(1)(b), ‘a decision notice has been given for a development application’—

omit, insert—

‘a development approval or master plan has taken effect’.

(3) Section 5.5.1(b)(i), after ‘development’—

insert—

‘the subject of the development approval or master plan’.

(4) Section 5.5.1(1)(b)(ii), after ‘applicant’—

insert—

‘for the development approval or the approval of the master plan’.

206 Amendment of s 5.7.2 (Documents local government must keep available for inspection and purchase)

(1) Section 5.7.2(1)(c), after ‘schedule 1, section 16’—

insert—

‘or schedule 1A, section 13’.

- (2) Section 5.7.2(1)(m)—

omit, insert—

‘(m) for each local government in the relevant area for a State planning regulatory provision—a copy of the provision;

(ma) for a local government in a designated region—a copy of the region’s regional plan;

(mb) each master planned area declaration for its planning scheme area;

(mc) each master plan for declared master planned areas in its planning scheme area;’

207 Amendment of s 5.7.3 (Documents local government must keep available for inspection only)

- (1) Section 5.7.3—

insert—

‘(c) a register of all master plan applications made to the local government.’.

- (2) Section 5.7.3—

insert—

- ‘(2) However, subsection 1(c) does not apply for a master plan application until—

(a) the application is withdrawn or lapses; or

(b) if paragraph (a) does not apply—the end of the last period during which an appeal may be made against a decision on the application.

Note—

For access to master plan applications until subsection (1)(c) applies, see section 2.5B.57 (Public scrutiny of application and related material).

- ‘(3) The register must include the following for each master plan application—

(a) a property description of the master planning unit;

- (b) the type of master plan applied for;
- (c) the names of any coordinating agency and participating agencies;
- (d) whether the application was withdrawn, lapsed or decided;
- (e) if the application was decided, the following—
 - (i) the day the decision was made;
 - (ii) whether the proposed master plan was approved, approved with the inclusion of conditions or refused;
 - (iii) if the proposed master plan was approved, whether coordinating agency conditions were included in the plan, and if so, the coordinating agency's name;
 - (iv) whether a negotiated notice was also given for the application.

‘(4) The register may be in hard copy or electronic form.’.

208 Amendment of s 5.7.6 (Documents chief executive must keep available for inspection and purchase)

Section 5.7.6(1)(fa)—

omit, insert—

- ‘(fa) each State planning regulatory provision;
- (fb) the regional plan for each designated region;
- (fc) master planned area declarations;’.

209 Amendment of s 5.7.9 (Limited planning and development certificates)

Section 5.7.9(b), ‘regulatory provisions or the draft regulatory provisions’—

omit, insert—

‘State planning regulatory provisions’.

210 Amendment of s 5.7.10 (Standard planning and development certificates)

- (1) After section 5.7.10(1)(aa)—
insert—
‘(aab) a copy of each master plan applying to the premises;
(aac) a copy of every notice of decision or negotiated notice about a master plan application for a master plan in force for the planning scheme area for the premises;’.
- (2) Section 5.7.10(1)(c), after ‘development approval’—
insert—
‘or a condition included in the master plan’.
- (3) Section 5.7.10(1)(e), after ‘party’—
insert—
‘or that it has received a copy of under section 5.2.4’.
- (4) Section 5.7.10(1)(f), after ‘schedule 1, section 16’—
insert—
‘or schedule 1A, section 13’.
- (5) Section 5.7.10(1)(aa) to (f), as amended—
renumber as section 5.7.10(1)(b) to (j).

211 Amendment of s 5.7.11 (Full planning and development certificates)

- (1) Section 5.7.11(1)(b) and (c)—
renumber as section 5.7.11(1)(c) and (d).
- (2) Section 5.7.11(1)—
insert—
‘(b) if there is a master plan that applies to the premises that includes conditions, including conditions of a type mentioned in paragraph (a)—a statement about the fulfilment or non-fulfilment of each condition, at a stated day after the day the certificate was applied for;’.

212 Amendment of s 5.8.1 (When EIS process applies)

Section 5.8.1—

insert—

‘(c) or is proposed to be, the subject of a master plan application.’.

213 Amendment of s 5.8.2 (Purpose of EIS process)

(1) Section 5.8.2(g) and (h)—

renumber as section 5.8.2(h) and (i).

(2) Section 5.8.2—

insert—

‘(g) for development under section 5.8.1(c)—to help the local government and any coordinating agency and participating agency to make an informed decision on the master plan application;’.

214 Amendment of s 5.8.3 (Applying for terms of reference)

Section 5.8.3(4)—

omit, insert—

‘(4) If an applicant proposes to make 1 or more master plan applications for the development, the EIS must be prepared for the first of the applications.

‘(5) Despite subsections (3) and (4), if the chief executive agrees that the EIS can be prepared for a stated later application, the EIS must be prepared for that application.’.

215 Amendment of s 5.8.4 (Draft terms of reference for EIS)

(1) Section 5.8.4(1)(c), ‘section 5.8.13(b) and (c)’—

omit, insert—

‘section 5.8.13(b), (c) and (d)’.

(2) Section 5.8.4(9)—

insert—

‘(c) for development that is, or is proposed to be, the subject of a master plan application—any coordinating agency.’.

216 Amendment of s 5.8.5 (Terms of reference for EIS)

Section 5.8.5(5)—

insert—

‘(c) to the extent the development for which the terms of reference have been prepared is, or is proposed to be, the subject of a master plan application—to the local government and any coordinating agency.’.

217 Amendment of s 5.8.7 (Public notification of draft EIS)

Section 5.8.7(1)—

insert—

‘(d) to the extent the development for which the EIS has been prepared is, or is proposed to be, the subject of a master plan application—give a copy of the draft EIS to the local government and any coordinating agency.’.

218 Amendment of s 5.8.9 (Chief executive evaluates draft EIS, submissions and other relevant material)

Section 5.8.9(1), ‘section 5.8.13(b) and (c)’—

omit, insert—

‘section 5.8.13(b), (c) and (d)’.

219 Amendment of s 5.8.13 (Who the chief executive must give EIS and other material to)

(1) Section 5.8.13(d)—

renumber as section 5.8.13(e).

(2) Section 5.8.13—

insert—

‘(d) to the extent the development for which the EIS has been prepared is, or is proposed to be, the subject of a

master plan application—the local government and any coordinating agency; and’.

220 Amendment of s 5.9.9 (Chief executive may issue guidelines)

- (1) Section 5.9.9(1)(d)(ii) and (iii)—
renumber as section 5.9.9(1)(d)(iii) and (iv).
- (2) Section 5.9.9(1)(d)—
insert—
‘(ii) schedule 1A, section 17(b);’.

221 Amendment of s 6.1.29 (Assessing applications (other than against the building assessment provisions))

Section 6.1.29(3)(f), ‘repealed Act;’—
omit, insert—
‘repealed Act;’
Editor’s note—
For regional plans, see also sections 6.4.1 and 6.8.10.’.

222 Amendment of s 6.1.30 (Deciding applications (other than under the building assessment provisions))

Section 6.1.30(6)(b), ‘refused.’—
omit, insert—
‘refused.’
Editor’s note—
For regional plans, see also sections 6.4.1 and 6.8.10.’.

223 Amendment of s 6.1.45A (Development control plans under repealed Act)

Section 6.1.45A(6), ‘plan.’—
omit, insert—
‘plan.’

Editor's note—

For structure plans and master plans for development control plans, see also section 6.8.12 (Transition of validated planning documents to master planning documents).'

224 Insertion of new ch 6, pt 8

Chapter 6—

insert—

'Part 8 Transitional provisions for Urban Land Development Authority Act 2007

'Division 1 Provisions for SEQ regional plan

'6.8.1 Definitions for div 1

'In this division—

amendment includes replacement.

commencement means the commencement of this section.

former, for a provision mentioned in this division, means the provision to which the reference relates is a provision of this Act as in force before the commencement.

new, for a provision mentioned in this division, means the provision to which the reference relates is a provision of this Act as in force from the commencement.

regulatory provisions means regulatory provisions under former section 2.5A.12.

SEQ region means the area, including the area of any Queensland waters, that comprised the SEQ region under former section 2.5A.2 immediately before the date of assent of the *Urban Land Development Authority Act 2007*.

SEQ regional plan means the instrument made by the regional planning Minister under former section 2.5A.15(2) in existence under this Act immediately before the date of assent of the *Urban Land Development Authority Act 2007*.

SEQ regional plan local growth management strategy means a local growth management strategy under former section 2.5A.20(5).

SEQ regional plan major development area means an area mentioned in former section 2.5A.20(5), definition *major development area*, identified or purportedly identified under that provision at any time before the commencement.

SEQ regional plan structure plan means a structure plan under former section 2.5A.20(5).

‘6.8.2 SEQ region becomes a designated region

- ‘(1) The SEQ region is, from the commencement, taken to be a designated region under new section 2.5A.2, with the name SEQ region, as if it has been prescribed under a regulation made under that section.
- ‘(2) Subsection (1) does not prevent the amendment of the designated region, under new section 2.5A.2.

‘6.8.3 SEQ regional plan becomes the regional plan for the SEQ region

- ‘(1) The SEQ regional plan is, from the commencement, taken to be the regional plan for the SEQ region as a designated region.
- ‘(2) To remove any doubt, it is declared that the regional plan continues to be a statutory instrument under the *Statutory Instruments Act 1992*.
- ‘(3) Subsection (1) does not prevent the amendment of the regional plan, under new chapter 2, part 5A, division 5.

‘6.8.4 Regulatory provisions included in SEQ regional plan become State planning regulatory provisions

- ‘(1) The regulatory provisions included in the SEQ regional plan are, from the commencement, taken to be State planning regulatory provisions for the SEQ region.
- ‘(2) Subsection (1) does not prevent the amendment of the State planning regulatory provisions for the SEQ region, under new chapter 2, part 5C, division 4.

‘6.8.5 References in SEQ regional plan and regulatory provisions

- ‘(1) This section applies to a reference in the SEQ regional plan or the regulatory provisions to—
- (a) a local growth management strategy; or
 - (b) a major development area; or
 - (c) a structure plan.
- ‘(2) From the commencement—
- (a) a reference to a local growth management strategy is taken to be a reference to an SEQ regional plan local growth management strategy; and
 - (b) a reference to a major development area is taken to be a reference to an SEQ regional plan major development area; and
 - (c) a reference to a structure plan is taken to be a reference to an SEQ regional plan structure plan.

‘6.8.6 Local growth management strategy

‘An SEQ regional plan local growth management strategy may be included in the regional plan for the SEQ region, using the process under new section 2.5A.18.

‘6.8.7 Structure plan

- ‘(1) This section applies to a local government whose local government area is in the SEQ region if—
- (a) the local government has resolved to prepare an SEQ regional plan structure plan—
 - (i) before the commencement; or
 - (ii) if the regional planning Minister for the SEQ region and the Minister approve the preparation of the plan—after the commencement; and
 - (b) the local government has prepared the plan; and
 - (c) the regional planning Minister has approved the plan.

- ‘(2) The Minister must, under schedule 1, section 18, advise the local government that it may—
- (a) adopt the plan as an amendment of its planning scheme; or
 - (b) adopt the plan as an amendment of its planning scheme, but subject to compliance with conditions the Minister may impose about the content of the proposed amendment of its planning scheme.
- ‘(3) If the local government adopts the plan as an amendment of its planning scheme, section 5.4.4(1)(i) applies to the amendment as if it were about a matter consisting of a structure plan for a declared master planned area.

‘6.8.8 Major development areas

- ‘(1) From the commencement, the regional planning Minister for the SEQ region may, in a written notice to a relevant local government, identify an SEQ regional plan major development area in the SEQ region.
- ‘(2) An SEQ regional plan major development area is taken to be a master planned area identified under section 2.5B.1, but it is not a declared master planned area.
- ‘(3) In this section—
- relevant local government* means a local government whose local government area is in the SEQ region.

‘6.8.9 Existing SEQ regional coordination committee

‘The SEQ regional coordination committee established under former section 2.5A.3 is, from the commencement, taken to be the regional coordination committee for the SEQ region.

‘6.8.10 Effect of regional plan for assessing and deciding applications under transitional planning schemes

- ‘(1) Subsections (2) and (3) apply—
- (a) for development on premises in a designated region other than the SEQ region; and

- (b) for the purposes of assessing a development application to which section 6.1.29 applies.

Note—

For assessing a development application to which section 6.1.29 applies for development on premises in the SEQ region, see section 6.4.1.

- ‘(2) In addition to the matters mentioned in section 6.1.29(3), the designated region’s regional plan also applies for assessing the application.
- ‘(3) To the extent of any inconsistency between the designated region’s regional plan and a matter stated in section 6.1.29(3), the regional plan prevails.
- ‘(4) A requirement under section 6.1.30 to refuse a development application because the application conflicts with any relevant strategic plan or development control plan under a transitional planning scheme applies only to the extent the requirement is consistent with the designated region’s regional plan.

‘Division 2 Provisions for chapter 2, part 5B

‘6.8.11 Master plans prevail over conditions of rezoning approvals under repealed Act

‘A master plan under this Act prevails, to the extent the plan is inconsistent with a condition—

- (a) of an approval given under section 4.4(5) of the repealed Act; or
- (b) decided under section 2.19(3) of the repealed Act.

‘6.8.12 Transition of validated planning documents to master planning documents

- ‘(1) This section applies to a development control plan, transitional planning scheme, transitional planning scheme policy or other plan (the *validated planning document*) to which section 6.1.45A applies.
- ‘(2) A State planning regulatory provision (the *transitional regulatory provision*) may provide for—

- (a) the transition of the validated planning document to a structure plan for a declared master planned area, and a master plan or master plans for the area; and
 - (a) any other matter related to the transition.
- ‘(3) Without limiting subsection (2), the transitional regulatory provision may provide for all or any of the following—
- (a) the identification of the master planned area for the structure plan;
 - (b) how the structure plan is made;
 - (c) how master plans for the identified master planned area are made, with or without approval;
 - (d) infrastructure agreements relating to the identified master planned area.
- ‘(4) If the transition mentioned in subsection (2)(a) is made under the transitional regulatory provision—
- (a) the validated planning document ceases to have effect to the extent provided for under the provision; and
 - (b) section 6.1.45A ceases to apply for the validated planning document.
- ‘(5) This section applies despite chapter 2 and section 6.1.45A to the extent provided for under the transitional regulatory provision.
- ‘(6) However, on the making of the transition, this Act applies to the structure plan, the master planned area and any master plan made under the transitional regulatory provision as if they had been made under chapter 2, part 5B.
- ‘(7) Section 2.5C(7)(2) applies to a transitional regulatory provision.’.

‘Division 3 Miscellaneous provision

‘6.8.13 Rezoning agreements under previous Acts

- ‘(1) This section applies to an agreement made for securing the conditions of a rezoning approval if the conditions did not

attach to the land, the subject of the approval, and bind successors in title.

- ‘(2) To the extent the agreement was validly made, still has effect and is not inconsistent with a master plan, nothing in the repealed Act or this Act affects the agreement.
- ‘(3) If—
- (a) a coordinating agency or the local government is proposing to include a condition about infrastructure in a proposed master plan; or
 - (b) a local government is fixing an infrastructure charge under chapter 5, part 1; or
 - (c) a coordinating agency or State infrastructure provider is giving a regulated State infrastructure charges notice;
- any amount relating to infrastructure that has been paid, or is payable, under the agreement must be taken into account.’.

225 Amendment of sch 1 (Process for making or amending planning schemes)

- (1) Schedule 1, section 3(2)(c)—
omit, insert—
‘(c) if the local government is in a designated region—state how the local government anticipates the planning scheme will reflect the region’s regional plan.’.
- (2) Schedule 1, section 8A(1), after ‘scheme’—
insert—
‘or infrastructure charges schedule’.
- (3) Schedule 1, section 10(1)(b)(ii)—
omit, insert—
‘(ii) if the local government is in a designated region—the region’s regional plan;’.
- (4) Schedule 1, section 10(1)(b)—
insert—

‘(v) an infrastructure charges schedule associated with a priority infrastructure plan included in the planning scheme.’.

(5) Schedule 1, section 18(5)(b), before ‘the following’—

insert—

‘each of’.

(6) Schedule 1, section 18(5)(b)(ii)—

omit, insert—

‘(ii) if the local government is in a designated region—the region’s regional plan.’.

226 Insertion of new sch 1A

After schedule 1—

insert—

‘Schedule 1A Process for amending planning scheme to include a structure plan

section 2.5B.10

‘Part 1 Making of structure plan amendment

‘1 Master planning process

‘(1) The local government must carry out the master planning required to make a structure plan for a declared master planned area.

‘(2) A participating agency must, within the limits of the laws it administers and the policies that are reasonably identifiable as policies it applies, participate in the master planning carried out by the local government to make a structure plan for a declared master planned area.

- ‘(3) The coordinating agency must coordinate the involvement of the participating agencies in the master planning process required to make a structure plan for a declared master planned area.
- ‘(4) The local government and the coordinating agency must agree on the proposed structure plan.
- ‘(5) If the local government, a participating agency or the coordinating agency can not agree on a matter mentioned in subsections (1) to (4), the Minister must—
 - (a) establish a committee to prepare a report on the matter and having considered the report, decide the matter; or
 - (b) having considered the written views of the parties, decide the matter.

‘2 **Proposing a structure plan**

- ‘(1) If the local government and the coordinating agency have agreed on the proposed structure plan, the local government must propose an amendment of its planning scheme to include the proposed structure plan.
- ‘(2) If the local government has proposed an amendment of its planning scheme to include the proposed structure plan under subsection (1), the local government must give the Minister a copy of the proposed amendment to its planning scheme including the proposed structure plan (the *structure plan amendment*).

‘Part 2 **Consideration of State interests and consultation stage**

‘3 **Considering proposed structure plan amendment for adverse effects on State interests**

- ‘(1) On receiving the copy of the structure plan amendment, under section 2(2), the Minister must consider whether or not State

interests would be adversely affected by the proposed structure plan amendment.

- ‘(2) The Minister must advise the local government, having regard to the Minister’s consideration under subsection (1), that it may start consultation on the proposed structure plan amendment on conditions the Minister believes appropriate.
- ‘(3) Before starting consultation on the proposed structure plan amendment, the local government must comply with any condition imposed by the Minister under subsection (2).

‘4 Consultation on the proposed structure plan amendment

‘If the Minister advises the local government that it may start consultation on the proposed structure plan amendment under section 3(2)—

- (a) the local government must start consultation with the significant landowners and stakeholders of the relevant master planned area for the proposed structure plan amendment; and
- (b) the local government may prepare and negotiate a local infrastructure agreement with the significant landowners and stakeholders of the relevant master planned area; and
- (c) the coordinating agency may prepare and negotiate a State infrastructure agreement with the significant landowners and stakeholders of the relevant master planned area.

‘5 Resolution of conflict

- ‘(1) If the parties can not agree on the matters mentioned in section 4, the Minister must—
 - (a) establish a committee to prepare a report on the matters or obtain the written views of the parties; and
 - (b) having considered the written report or views of the parties, decide—

- (i) whether to extend the period during which consultation must take place; or
 - (ii) that the consultation process ends and that the local government, participating agencies and the coordinating agency must re-start the master planning process; or
 - (iii) that the structure plan preparation process ends and that the declaration for the master planned area be repealed.
- ‘(2) The Minister’s decision must not be contrary to any relevant law.

‘Part 3 **Consideration of State interests and notification stage**

‘6 **Decision on proceeding with proposed structure plan amendment**

- ‘(1) Following consultation on the proposed structure plan amendment under section 4—
- (a) the local government must decide whether to—
 - (i) proceed with the proposed structure plan amendment and any local infrastructure agreement; or
 - (ii) decide not to proceed with the proposed structure plan amendment and any local infrastructure agreement; and
 - (b) the coordinating agency must decide whether to—
 - (i) proceed with the proposed structure plan amendment and any State infrastructure agreement; or
 - (ii) decide not to proceed with the proposed structure plan amendment and any State infrastructure agreement.

- ‘(2) If the local government and the coordinating agency decide to proceed with the proposed structure plan amendment and any local infrastructure agreement and any State infrastructure agreement, the local government must give the Minister a copy of the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement.

‘7 Reconsidering proposed structure plan amendment for adverse effects on State interests

- ‘(1) On receiving a copy of the proposed structure plan amendment under section 6(2), the Minister must consider whether or not State interests would be adversely affected by the proposed structure plan amendment, any local infrastructure agreement or any State infrastructure agreement.
- ‘(2) The Minister must advise the local government, having regard to the Minister’s consideration under subsection (1) that it may notify the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement on the conditions the Minister believes appropriate.
- ‘(3) Before giving notice of the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement, the local government must comply with any condition imposed by the Minister under subsection (2).

‘8 Public notice of, and access to, proposed structure plan amendment

- ‘(1) If the Minister advises the local government that it may give notice of the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement under section 7(2), the local government must publish, at least once in a newspaper circulating in the local government’s area, a notice stating the following—
- (a) the name of the local government;

- (b) the purpose and general effect of the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement;
 - (c) a description of the land or area to which the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement is intended to apply;
 - (d) a contact telephone number for information about the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement;
 - (e) that the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement are available for inspection and purchase;
 - (f) that written submissions about any aspect of the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement may be made to the local government by any person;
 - (g) the period (the *consultation period*) during which the submissions may be made;
 - (h) the requirements for making a properly made submission under this part.
- ‘(2) The consultation period must extend for at least 30 business days after the first publication of the notice under subsection (1).
- ‘(3) For all of the consultation period, the local government must display a copy of the notice in a conspicuous place in the local government’s public office.

‘9 Public access to proposed structure plan amendment

‘For all of the consultation period, the local government must have a copy of the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement available for inspection and purchase.

‘10 Consideration of submissions

‘The local government must consider properly made submissions about the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement.

‘11 Minimum notification requirements for consultation

‘Sections 8, 9 and 10 state the minimum requirements for notification to the public about the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement, but are not intended to prevent additional notification.

‘12 Reporting to persons who made submissions about proposed structure plan amendment

- ‘(1) This section applies if the local government receives properly made submissions about the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement and proceeds under section 13(1)(a) or the local government does not proceed under section 13(1)(b).
- ‘(2) The local government must prepare a report explaining in general terms how it has dealt with the submissions received and give to the principal submitter of each properly made submission—
- (a) a copy of the report; or
 - (b) a copy of the part of the report relating to the matter about which the submission was made.

‘Part 4**Adoption stage**

‘13 Decision on proceeding with proposed structure plan amendment

- ‘(1) Following notice of the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement under section 7—
- (a) the local government must decide whether to—
 - (i) proceed with the proposed structure plan amendment, any local infrastructure agreement and a report under section 12 about submissions on the proposed amendment (a *submissions report*); or
 - (ii) decide not to proceed with the proposed structure plan amendment, any local infrastructure agreement and a submissions report; and
 - (b) the coordinating agency must decide whether to—
 - (i) proceed with the proposed structure plan amendment and any State infrastructure agreement; or
 - (ii) decide not to proceed with the proposed structure plan amendment and any State infrastructure agreement.
- ‘(2) If the local government and the coordinating agency decide to proceed as mentioned in subsection (1)(a)(i) and (b)(i), the local government must give the Minister a copy of—
- (a) the proposed structure plan amendment; and
 - (b) any local infrastructure agreement; and
 - (c) any State infrastructure agreement; and
 - (d) the submissions report.

‘14 Reconsidering proposed structure plan amendment for adverse affects on State interests

- ‘(1) On receiving the copy of the proposed structure plan amendment under section 13(2), the Minister must consider whether or not State interests would be adversely affected by the proposed structure plan amendment, any local infrastructure agreement and any State infrastructure agreement.

- ‘(2) The Minister must advise the local government, having regard to the Minister’s consideration under subsection (1) that it may—
- (a) adopt the proposed structure plan amendment; or
 - (b) adopt the proposed structure plan amendment, but subject to compliance with conditions the Minister believes appropriate.
- ‘(3) Subsection (4) applies if the Minister—
- (a) advises the local government under subsection (2); and
 - (b) is satisfied the following are appropriately reflected in the proposed structure plan amendment—
 - (i) State planning policies or parts of State planning policies;
 - (ii) for a proposed structure plan amendment by a local government in the SEQ region—the regional plan for the SEQ region.
- ‘(4) The Minister must also advise the local government that the Minister is satisfied under subsection (3)(b).
- ‘(5) Before adopting the proposed structure plan amendment, the local government must—
- (a) comply with any condition imposed under subsection (2)(b); and
 - (b) state in the proposed structure plan amendment details of the advice given by the Minister under subsection (4).

‘15 **Adopting proposed structure plan amendment**

- ‘(1) If a local government proposes a structure plan amendment under section 2, the local government must—
- (a) if it has complied with all of the provisions of parts 2 and 3 that it must comply with to make a proposed structure plan amendment and has the Minister’s advice under section 14(2) that it may adopt the amendment—adopt the proposed structure plan amendment; or

- (b) decide not to proceed with the proposed structure plan amendment.
- ‘(2) If the local government decides not to proceed with the proposed structure plan amendment, it must, as soon as practicable after making the decision publish, at least once in both a newspaper circulating in the local government’s area and in the gazette, a notice stating—
- (a) the name of the local government; and
 - (b) that the local government has decided not to proceed with the proposed structure plan amendment; and
 - (c) the reasons for the decision.
- ‘(3) On the last day the local government publishes the notice, or as soon as practicable after that day, the local government must give the chief executive a copy of the notice.

‘16 Public notice of adoption of, and access to, structure plan amendment

‘As soon as practicable after the proposed structure plan amendment has been adopted, the local government must publish, at least once in both a newspaper circulating in the local government’s area and in the gazette, a notice stating the following—

- (a) the name of the local government;
- (b) when the proposed structure plan amendment was adopted;
- (c) the purpose and general effect of the proposed structure plan amendment;
- (d) that a copy of the proposed structure plan amendment is available for inspection and purchase.

‘17 Copy of notice and structure plan amendment to chief executive

‘On the day the local government publishes the notice, or as soon as practicable after that day, the local government must give the chief executive—

- (a) a copy of the notice; and
- (b) 5 certified copies of the proposed structure plan amendment in the form mentioned in section 5.9.9(1)(d).'

227 Amendment of sch 8 (Assessable development and self-assessable development)

- (1) Schedule 8, before part 1 heading—
insert—
‘Note—
Section 2.5B.63 modifies the application of this schedule for particular types of development in declared master planned areas.’.
- (2) Schedule 8, part 1, table 2, item 1—
insert—
‘(e) in an urban development area.’.
- (3) Schedule 8, part 1, table 2, item 5—
insert—
‘(e) the land is in an urban development area.’.
- (4) Schedule 8, part 1, table 2, items 6 and 7, after ‘premises’, first mention—
insert—
‘, other than premises in an urban development area,’.
- (5) Schedule 8, part 1, table 2, items 9 and 10, after ‘premises’—
insert—
‘, other than premises in an urban development area,’.
- (6) Schedule 8, part 1, table 3, item 1—
insert—
‘(k) is in relation to land in an urban development area.’.
- (7) Schedule 8, part 1, table 4, item 1A—
insert—
‘(k) in an urban development area.’.

- (8) Schedule 8, part 1, table 4, item 1C, after ‘native vegetation on land’—
insert—
‘, other than land in an urban development area.’.
- (9) Schedule 8, part 1, table 4, item 1D—
insert—
‘(i) in an urban development area.’.
- (10) Schedule 8, part 1, table 4, item 1E—
insert—
‘(c) in an urban development area.’.
- (11) Schedule 8, part 1, table 4, item 1F—
insert—
‘(c) in an urban development area.’.
- (12) Schedule 8, part 1, table 4, item 2, after ‘lot’—
insert—
‘, other than a lot in an urban development area’.
- (13) Schedule 8, part 1, table 4, item 3, after ‘kind’—
insert—
‘, other than in an urban development area.’.
- (14) Schedule 8, part 1, table 4, item 5—
insert—
‘(c) carried out in an urban development area.’.
- (15) Schedule 8, part 1, table 4, item 8, after ‘self-assessable development’—
insert—
‘and not in an urban development area’.
- (16) Schedule 8, part 1, table 4, item 9, after ‘Operational work’—
insert—
‘, other than operational work in an urban development area.’.
- (17) Schedule 8, part 1, table 5, item 1, after ‘*Water Act 2000*’—

insert—

‘, other than in an urban development area.’.

- (18) Schedule 8, part 1, table 5, item 2—

insert—

‘(d) in an urban development area.’.

- (19) Schedule 8, part 2, table 4, item 1, after ‘kind’—

insert—

‘, other than in an urban development area.’

- (20) Schedule 8, part 2, table 4, item 5, after ‘local government road’, first mention—

insert—

‘, other than in an urban development area.’.

228 Amendment of sch 9 (Development that is exempt from assessment against a planning scheme)

Schedule 9, table 5—

insert—

| ‘Urban development areas | |
|--------------------------|---|
| 7 | All aspects of development for an urban development area.’. |

229 Amendment of sch 10 (Dictionary)

- (1) Schedule 10, definitions *applicant’s appeal period*, *assessable development*, *draft regulatory provisions*, *regional planning Minister*, *regulatory provisions*, *self-assessable development*, *SEQ region*, *SEQ regional plan* and *State infrastructure provider*—

omit.

- (2) Schedule 10—

insert—

‘*applicant’s appeal period*, for an appeal—

- (a) by an appellant to the court, for a development application—see section 4.1.27(2); or
- (b) by an appellant to the court, for a master plan application—see section 4.1.30A(2); or
- (c) by an appellant to a tribunal—see section 4.2.9(2).

assessable development—

- 1 Generally, *assessable development* means development stated in schedule 8, part 1, other than to the extent that part is modified under section 2.5B.63.
- 2 The term also includes development declared under a State planning regulatory provision to be assessable development.
- 3 For a planning scheme area, the term also includes other development not stated in schedule 8, part 1, but declared to be assessable development under any of the following that applies to the area—
 - (a) the planning scheme for the area;
 - (b) a temporary local planning instrument;
 - (c) a master plan for a declared master planned area;
 - (d) a preliminary approval to which section 3.1.6 applies.

certificate of classification see the *Building Act 1975*, schedule 2.

coordinating agency for—

- (a) a structure plan for a declared master planned area—means the entity identified as the coordinating agency in the master planned area declaration for the area; or
- (b) a master plan application—means an entity identified as a coordinating agency in the structure plan for the relevant master planned area or an entity otherwise identified by the Minister as a coordinating agency.

coordinating agency assessment period see section 2.5B.37.

coordinating agency conditions, for a master plan application or a master plan, see section 2.5B.39(2)(b).

declared master planned area see section 2.5B.2(4).

designated region see section 2.5A.2(1).

local government, for a provision of this Act about a master planned area, means the local government whose local government area includes the area.

local infrastructure agreement means an infrastructure agreement entered into by a local government.

making a structure plan or master plan includes preparing it.

master plan means a master plan approved under section 2.5B.42 that is still in force, including a condition included in the plan.

master plan application see section 2.5B.21.

master planned area means an area identified under section 2.5B.2 as a master planned area.

master planned area declaration see section 2.5B.2.

master planning unit, for a master plan or proposed master plan, means the declared master planned area, or part of the declared master planned area, to which the master plan or proposed master plan applies.

negotiated notice, for a master plan application, see section 2.5B.46(3).

participating agency for—

- (a) a structure plan for a declared master planned area—means an entity identified as a participating agency in the master planned area declaration for the area; or
- (b) a master plan application—means an entity identified as a participating agency in the structure plan for the relevant master planned area or an entity otherwise identified by the Minister as a participating agency.

Queensland Competition Authority means the Queensland Competition Authority established under the *Queensland Competition Authority Act 1997*.

regional plan see section 2.5A.10.

Note—

For the SEQ region, see also chapter 6 (Transitional provisions), part 8 (Transitional provisions for Urban Land Development Authority Act 2007), division 1 (Provisions for SEQ regional plan).

regional planning Minister, for a designated region, means the Minister administering chapter 2, part 5A, 5B or 5C, for the region.

regulated State infrastructure charge see section 5.3.3(1)(b).

regulated State infrastructure charges notice see section 5.3.4(1).

regulated State infrastructure charges schedule means a regulated State infrastructure charges schedule made under sections 5.3.2 and 5.3.3.

relevant area, for a State planning regulatory provision, see section 2.5C.1.

request for information, for a master plan application, see section 2.5B.24(1).

self-assessable development—

- 1 Generally, *self-assessable development* means development stated in schedule 8, part 2, other than to the extent that part is modified under section 2.5B.63.
- 2 The term also includes development declared under a State planning regulatory provision to be self-assessable development.
- 3 For a planning scheme area, the term also includes other development not stated in schedule 8, part 2, but declared to be self-assessable development under any of the following that applies to the area—
 - (a) the planning scheme for the area;
 - (b) a temporary local planning instrument;
 - (c) a master plan for a declared master planned area;
 - (d) a preliminary approval to which section 3.1.6 applies.

SEQ region see section 6.8.1.

SEQ regional plan see section 6.8.1.

serious environmental harm see the *Environmental Protection Act 1994*, section 17.

State infrastructure agreement means an infrastructure agreement entered into by a public sector entity other than a local government.

State infrastructure provider means a concurrence agency that—

- (a) supplies, or contributes toward the cost of, State infrastructure; or
- (b) administers a regional plan for a designated region.

State planning regulatory provision means—

- (a) a State planning regulatory provision made under section 2.5C.1; or
- (b) a draft State planning regulatory provision that under section 2.5C.12, has effect as a State planning regulatory provision.

Note—

See also section 6.8.12 (Transition of validated planning documents to master planning documents).

structure plan, for a declared master planned area, means the structure plan for the area, made under chapter 2, part 5B.

structure plan amendment, for schedule 1A, see schedule 1A, section 2(2).

urban development area means an urban development area under the *Urban Land Development Authority Act 2007*.

- (3) Schedule 10, definition *assessing authority*, paragraph (f), ‘the regulatory provisions or draft regulatory provisions apply’—

omit, insert—

‘a State planning regulatory provision applies’.

- (4) Schedule 10, definition *code*, paragraph (c)—

omit, insert—

‘(c) in a master plan for a declared master planned area; or

- (d) in a preliminary approval to which section 3.1.6 applies.’.

- (5) Schedule 10, definition *common material*—
insert—
'(c) an infrastructure agreement applicable to the land the subject of the application.'
- (6) Schedule 10, definition *consultation period*, paragraph (f)—
renumber as paragraph (i).
- (7) Schedule 10, definition *consultation period*, paragraphs (d) and (e)—
omit, insert—
'(d) for making a regional plan—see section 2.5A.13(2)(e);
or
(e) for amending a regional plan—means the consultation period under section 2.5A.13(2)(e) as applied under section 2.5A.17; or
(f) for making a structure plan for a declared master planned area—see schedule 1A, section 8(1)(g); or
(g) for a master plan application—see section 2.5B.28(1)(f);
or
(h) for making or amending a State planning regulatory provision—see section 2.5C.9(3)(e); or'.
- (8) Schedule 10, definition *deemed refusal*—
insert—
'(d) for a master plan application—by the end of the period under section 2.5B.40 for the deciding of the application.'
- (9) Schedule 10, definition *development infrastructure*, paragraph (a)(i), after 'flood mitigation'—
insert—
' , but not urban and rural residential water cycle management infrastructure that is State infrastructure'.
- (10) Schedule 10, definition *development offence*, 'or 4.3.5A'—
omit, insert—
'4.3.5A or 4.3.5B'.

- (11) Schedule 10, definition *Minister*, paragraph (b)—
omit, insert—
'(b) in chapter 2, part 5A, 5B or 5C, or chapter 3, part 6—
(i) generally—the Minister administering the part; or
(ii) for a matter the regional planning Minister is satisfied relates to chapter 2, part 5A, 5B or 5C—the regional planning Minister for the region; and'.
- (12) Schedule 10, definition *planning instrument*, 'the SEQ regional plan, draft regulatory provisions'—
omit, insert—
'a designated region's regional plan, a State planning regulatory provision'.
- (13) Schedule 10, definition *properly made submission*, paragraph (e)(v) and (vi)—
renumber as paragraph (e)(vi) and (vii).
- (14) Schedule 10, definition *properly made submission*, paragraph (e)(iv)—
omit, insert—
'(iv) if the submission is about a designated region's regional plan—to the regional planning Minister for the region; or
(v) if the submission is about a master plan application—to the local government; or'.
- (15) Schedule 10, definition *State infrastructure*—
insert—
'(e) health infrastructure, including hospitals and associated institutions infrastructure;
(f) freight rail infrastructure;
(g) State urban and rural residential water cycle management infrastructure, including infrastructure for water supply, sewerage, collecting water, treating water, stream managing, disposing of water and flood mitigation;

- (h) justice administration facilities, including court or police facilities.’.

Part 9 Amendment of Land Act 1994

230 Act amended in pt 9

This part amends the *Land Act 1994*.

231 Amendment of s 16 (Deciding appropriate tenure)

Section 16—

insert—

- ‘(2A) Also, to the extent the land is in an urban development area, the evaluation must take account of, and give primary consideration to, any development scheme or interim land use plan under the *Urban Land Development Authority Act 2007* that applies to the land.’.

232 Amendment of s 33 (Revocation of reserve)

Section 33(1)—

insert—

- ‘(d) the reserve or part is in an urban development area.’.

233 Amendment of s 38 (Cancelling a deed of grant in trust)

Section 38(1)—

insert—

- ‘(e) the land is in an urban development area.’.

234 Amendment of s 122 (Deeds of grant of unallocated State land)

Section 122(1), after ‘without competition’—

insert—

‘if the grant is to the Urban Land Development Authority or’.

235 Amendment of s 290J (Requirements for registration of plan of subdivision)

Section 290J—

insert—

- ‘(5) Subsection (6) applies, despite subsection (1), if—
- (a) the land the subject of the subdivision is in an urban development area; and
 - (b) the plan of subdivision has been consented to by the Urban Land Development Authority.
- ‘(6) The plan must be registered without the consent of the Minister or anyone else whose consent would otherwise have been required for the plan if it otherwise complies with this section.’.

236 Amendment of sch 6 (Dictionary)

Schedule 6—

insert—

‘*urban development area* means an urban development area under the *Urban Land Development Authority Act 2007*.

Urban Land Development Authority means the Urban Land Development Authority under the *Urban Land Development Authority Act 2007*.’.

Part 10 Amendment of Land Title Act 1994

237 Act amended in pt 10

This part amends the *Land Title Act 1994*.

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

- (1) Section 50(h) and (i), ‘local government concerned’—
omit, insert—
‘relevant planning body’.
- (2) Section 50—
insert—
- ‘(3) In this section—
‘*relevant planning body* means—
- (a) if the proposed lots are in an urban development area—the Urban Land Development Authority; or
- (b) otherwise—the relevant local government.’.

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

- Section 65(3A), ‘approved by the local government.’—
omit, insert—
‘approved by—
- (a) if the lot is in an urban development area—the Urban Land Development Authority; or
- (b) otherwise—the relevant local government.’.

240 Amendment of s 83 (Registration of easement)

- Section 83(2), ‘approved by the local government concerned.’—
omit, insert—
‘approved by—
- (a) if the lot is in an urban development area—the Urban Land Development Authority; or
- (b) otherwise—the relevant local government.’.

241 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘**relevant local government**, for a provision about a lot or proposed lot, means each local government in whose area the lot or proposed lot is located.

urban development area means an urban development area under the *Urban Land Development Authority Act 2007*.

Urban Land Development Authority means the Urban Land Development Authority under the *Urban Land Development Authority Act 2007*.’.

Part 11 **Amendment of Nuclear Facilities Prohibition Act 2007**

242 Act amended in pt 11

This part amends the *Nuclear Facilities Prohibition Act 2007*.

243 Amendment of s 8 (No development approval or mining tenement for a nuclear facility)

(1) Section 8(1), ‘under the *Integrated Planning Act 1997*’—

omit.

(2) Section 8—

insert—

‘(4) In this section—

development approval means a development approval under the *Integrated Planning Act 1997* or a UDA development approval under the *Urban Land Development Authority Act 2007*.’.

Part 12 Amendment of Public Service Act 1996

244 Act amended in pt 12

This part amends the *Public Service Act 1996*.

245 Amendment of sch 1 (Public service offices and their heads)

Schedule 1—

insert—

‘12D Urban Land Development Authority under the *Urban Land Development Authority Act 2007*

The chief executive officer under the *Urban Land Development Authority Act 2007*’.

Part 13 Amendment of Transport Infrastructure Act 1994

246 Act amended in pt 13

This part amends the *Transport Infrastructure Act 1994*.

247 Amendment of s 49 (Assessment of impacts on State-controlled roads from certain activities)

Section 49(1)(b)—

insert—

‘(iii) development in an urban development area under the *Urban Land Development Authority Act 2007*’.

248 Amendment of s 50 (Ancillary works and encroachments)

Section 50(7), after ‘1995’—

insert—

‘, the *Urban Land Development Authority Act 2007*’.

Part 14 Amendment of Vegetation Management Act 1999

249 Act amended in pt 14

This part amends the *Vegetation Management Act 1999*.

250 Amendment of s 22A (Particular vegetation clearing applications may be assessed)

Section 22A(2)—

insert—

‘(1) in an urban development area under the *Urban Land Development Authority Act 2007*’.

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 Integrated Planning Act, section 1.3.5.

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 Integrated Planning Act, section 2.6.1.

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

Schedule (continued)

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 1996*, section 21.

information request see section 53(1).

infrastructure see the Integrated Planning Act, schedule 10.

IPA development application means a development application under the Integrated Planning Act.

IPA development approval—

- 1 An *IPA development approval* is a development approval under the Integrated Planning Act.
- 2 The term also includes a continuing approval under the Integrated Planning Act, section 6.1.23 that, under that section, has effect as an IPA development approval under paragraph 1.

Integrated Planning Act means the *Integrated Planning Act 1997*.

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—

Schedule (continued)

- (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 Integrated Planning Act.

lot see the Integrated Planning Act, section 1.3.5.

material change of use see the Integrated Planning Act, section 1.3.5.

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 Integrated Planning Act, section 1.3.5.

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 Integrated Planning Act.

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

planning scheme means a planning scheme under the Integrated Planning Act, chapter 2, part 1, division 3.

Schedule (continued)

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 Integrated Planning Act, section 1.3.5.

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 IPA 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 IPA 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

Schedule (continued)

- (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).

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).

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).

Schedule (continued)

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.