



Queensland

Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

Act No. 36 of 2014



Queensland

Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

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Queensland

Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

Act No. 36 of 2014

An Act to amend the Sustainable Planning Act 2009 for particular purposes, to amend the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009 and the State Development and Public Works Organisation Act 1971 for other particular purposes, to amend the City of Brisbane Act 2010 and the Local Government Act 2009 for other particular purposes and to amend the Industrial Relations Act 1999 and Industrial Relations Regulation 2011 for other particular purposes

[Assented to 19 June 2014]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014*.

2 Commencement

This Act, other than part 3, division 2 and part 3A, commences on a day to be fixed by proclamation.

Part 2 Amendment of Sustainable Planning Act 2009

3 Act amended

This part amends the *Sustainable Planning Act 2009*.

Note—

See also the amendments in schedule 1.

4 Replacement of ch 3, pt 2, div 4, hdg

Chapter 3, part 2, division 4, heading—
omit, insert—

**Division 4 Provisions about
 reviewing planning
 schemes generally**

**Subdivision 1 Reviewing planning
 schemes**

5 Insertion of new ch 3, pt 2, div 4, sdiv 2

After section 94—

insert—

Subdivision 2 LGIP review

94A Requirement to review LGIP

- (1) Each local government must complete a review of any LGIP included in its planning scheme (an *LGIP review*) within—
 - (a) 5 years after the LGIP was included in the planning scheme; and
 - (b) each subsequent 5-year period after completing the review under paragraph (a).
- (2) In conducting an LGIP review, the local government must follow the process stated in a guideline—
 - (a) made by the Minister; and
 - (b) prescribed by regulation.
- (3) An LGIP review is not a review for the purposes of a review under subdivision 1.

**6 Amendment of s 117 (Process for making or amending
 local planning instruments)**

- (1) Section 117, heading, after ‘for’—

insert—

[s 7]

preparing,

(2) Section 117(2)—

renumber as section 117(3).

(3) Section 117—

insert—

(2) Without limiting the application of subsection (1) in relation to an LGIP, an LGIP or an amendment of an LGIP must be prepared as required under a guideline—

(a) made by the Minister; and

(b) prescribed by regulation.

7 Amendment of s 335 (Content of decision notice)

Section 335(1)(e)—

insert—

(iii) for each condition about infrastructure imposed under chapter 8—the provision under which the condition was imposed;

8 Amendment of s 347 (Conditions that can not be imposed)

(1) Section 347(1)(b)—

omit, insert—

(b) other than under chapter 8, part 2 or 3—require a monetary payment for the establishment, operating or maintenance costs of, or works to be carried out—

(i) for development infrastructure; or

(ii) for the imposition of a condition by a State infrastructure provider—infrastructure or works to protect or

maintain the infrastructure operation;
or

Note—

Chapter 8, parts 2 and 3 deal with
infrastructure conditions.

(2) Section 347(1)—

insert—

(f) require a person to enter into an
infrastructure agreement.

(3) Section 347(2) and (3)—

omit.

9 Replacement of s 478 (Appeals about particular charges for infrastructure)

Section 478—

omit, insert—

478 Appeals about infrastructure charges notice

- (1) The recipient of an infrastructure charges notice may appeal to the court about the decision to give the notice.
- (2) However, the appeal may be made only on 1 or more of the following grounds—
 - (a) the charge in the notice is so unreasonable that no reasonable relevant local government could have imposed it;
 - (b) the decision involved an error relating to—
 - (i) the application of the relevant adopted charge; or
 - (ii) the working out, for section 636, of additional demand; or
 - (iii) an offset or refund;

[s 9]

- (c) there was no decision about an offset or refund;

Examples of possible errors in applying an adopted charge—

- the incorrect application of gross floor area for a non-residential development
- applying an incorrect ‘use category’ under an SPRP (adopted charges) to the development

- (d) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.

- (3) To remove any doubt, it is declared that the appeal must not be about—

(a) the adopted charge itself; or

(b) for a decision about an offset or refund—

(i) the establishment cost of infrastructure identified in an LGIP; or

(ii) the cost of infrastructure decided using the method included in the local government’s charges resolution.

- (4) The appeal must be started within 20 business days after the day the recipient is given the relevant infrastructure charges notice.

478A Appeals against refusal of conversion application

- (1) The applicant for a conversion application may appeal to the court against a refusal, or deemed refusal, of the application.
- (2) The appeal must be started within the following period—
- (a) if the applicant is given written notice of the refusal—20 business days after the day the applicant is given the notice;

- (b) otherwise—20 business days after the end of the required period under section 660(5) for the application.

10 Replacement of ss 502–504

Sections 502 to 504—

omit, insert—

502 Committee membership

- (1) A building and development committee must not consist of more than 5 members.

Note—

For the establishment of a building and development committee and the appointment of its chairperson, see section 554.

- (2) If the committee is to hear only an appeal about a referral agency’s response concerning the amenity and aesthetic impact of a building or structure, its chairperson must be an architect.
- (3) If the committee is to hear only an appeal about an infrastructure charges notice or a conversion application, its chairperson must be a lawyer.

503 Membership continuity for proceeding

After a building and development committee is established for a committee proceeding, its membership must not be changed, except under section 554B.

11 Amendment of s 505 (Referee with conflict of interest not to be member of committee)

- (1) Section 505(2)—
renumber as section 505(3).
- (2) Section 505—

[s 12]

insert—

- (2) However, subsection (1) does not apply to a referee merely because the referee previously acted in relation to the preparation of a relevant local planning instrument.

12 Replacement of s 535 (Appeals about charges for infrastructure)

Section 535—

omit, insert—

535 Appeals about infrastructure charges decisions

- (1) The recipient of an infrastructure charges notice may appeal to a building and development committee about the decision to give the notice.
- (2) However, the appeal may be made only on 1 or more of the following grounds—
 - (a) the decision involved an error relating to—
 - (i) the application of the relevant adopted charge; or
 - (ii) the working out, for section 636, of additional demand; or
 - (iii) an offset or refund;
 - (b) there was no decision about an offset or refund;

Examples of possible errors in applying an adopted charge—

- the incorrect application of gross floor area for a non-residential development
- applying an incorrect ‘use category’ under an SPRP (adopted charges) to the development

- (c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.
- (3) To remove any doubt, it is declared that the appeal must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of infrastructure in an LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government’s charges resolution.
- (4) The appeal must be started within 20 business days after the day the recipient is given the relevant infrastructure charges notice.

535A Appeals against refusal of conversion application

- (1) The applicant for a conversion application may appeal to a building and development committee against a refusal, or deemed refusal, of the application.
- (2) The appeal must be started within the following period—
 - (a) if the applicant is given written notice of the refusal—20 business days after the day the applicant is given the notice;
 - (b) otherwise—20 business days after the end of the required period under section 660(5) for the application.

[s 13]

13 Replacement of s 554 (Establishing a building and development committee)

Section 554—

omit, insert—

554 Action when committee proceeding starts

- (1) This section applies when the registrar of building and development committees receives a document starting a committee proceeding within the period required under this Act and accompanied by the prescribed fee.
- (2) The chief executive must—
 - (a) establish a building and development dispute resolution committee for the proceeding; and
 - (b) subject to section 502(2) and (3)—appoint 1 of the referees as the committee's chairperson.
- (3) If a building and development committee is established, the registrar must give each party to the proceeding written notice of the establishment.
- (4) Despite subsection (2), the chief executive may decide to end the committee proceeding without establishing a building and development committee if satisfied it is not reasonably practicable to do so.

Note—

See section 554B(2)(b), for examples of when it is not reasonably practicable.

- (5) The chief executive must give all parties to the committee proceeding written notice of the decision to end the proceeding.
- (5A) A notice under subsection (5) must state—

- (a) that the person who started the ended proceeding may commence proceedings in the court; and
 - (b) how the court proceedings may be commenced.
- (6) Despite another provision of this Act, a court appeal period for the matter the subject of the ended proceeding only begins when the person who started the ended proceeding is given a notice under subsection (5).

554A Power of chief executive to excuse irregularities

- (1) This section applies if—
- (a) the registrar of building and development committees receives a document purporting to start a committee proceeding, accompanied by the prescribed fee; and
 - (b) either of the following applies (the *noncompliance*) —
 - (i) the document was not lodged within the period required under this Act;
 - (ii) the document does not otherwise comply with requirements under this Act for validly starting a proceeding of that type.
- (2) The registrar must, in writing, refer the document to the chief executive together with the registrar's reasons for deciding there is a noncompliance.
- (3) The chief executive must—
- (a) consider the document and the noncompliance and decide whether the noncompliance would cause substantial

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injustice to anyone who would be a party to the committee proceeding; and

- (b) give written notice to the registrar about the decision.

Example of no substantial injustice—

A notice of appeal contains an incorrect real property description of the land the subject of the appeal, but an attached supporting document contains the correct one.

- (4) If the chief executive decides the noncompliance would cause substantial injustice, the registrar must give the person who lodged the document a written notice stating that the document is of no effect because of the noncompliance.
- (5) If the chief executive does not decide the noncompliance would cause any substantial injustice, the chief executive may act under section 554 as if the noncompliance had not happened.

554B Power to end committee proceeding or establish new committee

- (1) This section applies if the chief executive is satisfied the building and development committee established for a committee proceeding—
- (a) does not have the expertise to hear or decide the proceeding; or
- (b) is not able to make a decision for a proceeding.
- (2) The chief executive may—
- (a) suspend the proceeding and establish another building and development dispute resolution committee to re-hear the proceeding; or

- (b) if satisfied it is not reasonably practicable to establish another building and development dispute resolution committee—decide to end the committee proceeding.

Examples of when it is not reasonably practicable—

- if there are no general referees or insufficient general referees appointed under section 571, who are not disqualified under section 505(3)
 - if the referees who are available will not be able to decide the proceeding in a timely way
- (3) The chief executive must give all parties to the committee proceeding written notice of an action taken or decision made under subsection (2).
- (4) Subsections (5) and (6) apply if the chief executive decides to end the committee proceeding.
- (5) The notice under subsection (3) must state—
- (a) that the person who started the ended proceeding may commence proceedings in the court; and
 - (b) how the court proceedings may be commenced.
- (6) Despite another provision of this Act, a court appeal period for the matter the subject of the ended proceeding starts again when the person who started the ended proceeding is given a notice under subsection (3).

14 Insertion of new s 569A

Chapter 7, part 2, division 9—

insert—

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569A Power to refund fees for committee proceeding ended by chief executive

If, under section 554(4) or 554B(2)(b), the chief executive ends a committee proceeding, the chief executive may, but need not, refund the fee paid to start the proceeding.

15 Amendment of s 570 (Appointment of referees)

Section 570(2)—

omit, insert—

- (2) Also, the chief executive may, by written notice, appoint other persons to be referees if satisfied each person has the qualifications, experience or qualifications and experience to be a referee.

16 Replacement of s 572 (Term of referee's appointment)

Section 572—

omit, insert—

572 Term of referee's appointment

- (1) A person may be appointed—
 - (a) as a general referee—for the term the Minister considers appropriate, but the term must not be longer than 3 years; and
 - (b) as a referee appointed by the chief executive—for the term the chief executive considers appropriate, but the term must not be longer than 3 years.
- (2) The term of appointment as mentioned in subsection (1) must be stated in the notice of appointment.
- (3) A referee may be reappointed.
- (4) A referee may, at any time, resign the referee's appointment by signed notice given to—

-
- (a) if the Minister appointed the referee—the Minister; or
 - (b) if the chief executive appointed the referee—the chief executive.
- (5) An appointment may be cancelled at any time by—
- (a) if the referee is a general referee—the Minister; or
 - (b) otherwise—the chief executive.

17 Amendment of s 573 (General referee to make declaration)

- (1) Section 573, heading, ‘General referee’—
omit, insert—

Referee

- (2) Section 573(1), ‘general’—
omit.

18 Replacement of ch 8 (Infrastructure)

Chapter 8—

omit, insert—

Chapter 8 Infrastructure

Part 1 Preliminary

625 Simplified outline of chapter

- (1) Part 1, other than this section, states interpretative provisions.
- (2) Part 2—

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- (a) authorises local governments to do the following for development approvals—
 - (i) for trunk infrastructure, either or both of the following—
 - (A) adopt, by resolution, charges for development infrastructure and levy charges in accordance with the resolution;
 - (B) impose particular conditions about development infrastructure;
 - (ii) for non-trunk infrastructure, impose particular conditions about development infrastructure; and
 - (b) provides for a State planning regulatory provision to govern local government adopted charges and charges by distributor-retailers under the SEQ Water Act for trunk infrastructure.
- (3) Part 3 authorises State infrastructure providers to impose particular conditions on development approvals about infrastructure.
 - (4) Part 4 provides for agreements between public sector entities and others about infrastructure.
 - (5) Part 5 contains miscellaneous provisions.

626 Extension of chapter to permissible changes, extension approvals and compliance assessment

- (1) A reference in a provision of this chapter to a person or matter as follows (the *subject*) includes a reference to the other person or matter stated for the subject—
 - (a) for a development application—
 - (i) a change request; and

-
- (ii) a request (an *extension request*) under section 383 to extend the period of a development approval; and
 - (iii) a request for compliance assessment for development;
 - (b) for the applicant for a development approval—a person making a change request, an extension request or a request for compliance assessment for development;
 - (c) for a development approval—an approval of a change request or an extension request, or a compliance permit;
 - (d) for the giving of a development approval—the giving of a change approval, an extension approval or a compliance permit.
- (2) The inclusions apply to both general and specific references and with necessary changes for them to apply for change requests, extension requests and compliance assessment.
- (3) In applying this chapter to a change approval or an extension approval, parts 2 and 3 apply as if—
- (a) the power to give infrastructure charges notices were instead a power to amend, by notice to the applicant for the approval, any infrastructure charges notice for the relevant development approval; and
 - (b) a reference to an infrastructure charges notice were a reference to the infrastructure charges notice as so amended; and
 - (c) a reference to the giving of a development approval were a reference to the giving of the change approval or extension approval; and

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- (d) a power to impose a particular condition on a development approval were a power to amend the development approval the subject of the change request or extension request to impose the particular condition, as well as the power to impose under section 375; and
 - (e) a reference to a development approval, or to a condition of a development approval, were a reference to the relevant development approval as so amended or the condition.
- (3A) However, despite subsection (3)(a), a local government may only amend an infrastructure charges notice for a relevant development approval for a change approval or an extension approval if the amendment relates to the change to, or extension of, the development approval.
- (4) In this section—
- change approval*** means the approval under section 375(1) of a change request.
- change request*** means a request under section 369(1) to change a development approval.
- extension approval*** means the approval, under section 387(1), of an extension request.
- relevant development approval*** means—
- (a) for a change approval—the development approval changed under the change approval; or
 - (b) for an extension approval—the development approval to which the extension approval relates.

627 Definitions for ch 8

In this chapter—

additional payment condition see section 650(1).

adopted charge see section 630(1).

agreement means an agreement in writing.

automatic increase provision see section 631(3)(b).

charges breakup means the proportion of the maximum adopted charges under this chapter and under the SEQ Water Act as between—

- (a) the local government; and
- (b) a distributor-retailer of the local government.

charges resolution see section 630(1).

conversion application see section 659(1).

development infrastructure means—

- (a) land or works, or both land and works, for—
 - (i) water cycle management infrastructure, including infrastructure for water supply, sewerage, collecting water, treating water, stream managing, disposing of waters and flood mitigation, but not water cycle management infrastructure that is State infrastructure; or
 - (ii) transport infrastructure, including roads, vehicle lay-bys, traffic control devices, dedicated public transport corridors, public parking facilities predominantly serving a local area, cycle ways, pathways and ferry terminals; or
 - (iii) public parks infrastructure, including playground equipment, playing fields, courts and picnic facilities; or
- (b) land, and works that ensure the land is suitable for development, for local

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community facilities, including, for example, the following—

- (i) community halls or centres;
- (ii) public recreation centres;
- (iii) public libraries.

establishment cost, for a provision about trunk infrastructure, means the following—

- (a) for existing infrastructure—
 - (i) the current replacement cost of the infrastructure as reflected in the relevant local government's asset register; and
 - (ii) the current value of the land acquired for the infrastructure;
- (b) for future infrastructure—all costs of land acquisition, financing, and design and construction, for the infrastructure.

impose, for a provision about a condition of a development approval, includes a concurrence agency requiring the condition to be attached to a development approval.

information notice, about a decision, means a notice stating—

- (a) the decision and the reasons for it; and
- (b) that its recipient may appeal against the decision; and
- (c) how the recipient may appeal.

Note—

For appeals relating to this chapter, see sections 478, 478A, 535 and 535A.

infrastructure agreement see section 670.

infrastructure charges notice means—

-
- (a) if paragraphs (b) and (c) do not apply—an infrastructure charges notice given under section 364(2), 635(2) or 662(4)(a); or
 - (b) if, under section 643(1), a negotiated notice within the meaning of that section replaces an existing infrastructure charges notice—the negotiated notice; or
 - (c) if an existing infrastructure charges notice is amended under section 626(3), 657(3) or 662(4)(b)—the notice as amended.

levied charge see section 635(6).

LGIP (an acronym for local government infrastructure plan) means the part of a local government's planning scheme that, to the extent applicable, does any or all of the following—

- (a) identifies the PIA;
- (b) states assumptions about—
 - (i) population and employment growth; and
 - (ii) the type, scale, location and timing of future development;
- (c) includes plans for trunk infrastructure;
- (d) states the desired standard of service for development infrastructure.

maximum adopted charge see section 629(5).

necessary infrastructure condition see section 645(2).

non-rural purposes means purposes other than rural or rural residential purposes.

non-trunk infrastructure means development infrastructure other than trunk infrastructure.

notice means a notice in writing.

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original notice see section 640.

payer, for a provision about a levied charge or for a payment, means anyone who pays part or all of the charge or payment.

payment includes a contribution by way of a payment.

PIA (an acronym for priority infrastructure area) means an area—

- (a) used, or approved for use, for non-rural purposes; and
- (b) serviced, or intended to be serviced, with development infrastructure networks; and
- (c) that will accommodate at least 10 (but no more than 15) years of growth for non-rural purposes.

PPI index means the following—

- (a) generally—the producer price index for construction 6427.0 (ABS PPI) index number 3101—Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics;
- (b) if an index described in paragraph (a) ceases to be published—another similar index prescribed by regulation.

public sector entity does not include a distributor-retailer.

relevant appeal period, for a provision about an infrastructure charges notice, means the period within which its recipient may appeal under section 478 or 535.

relevant or reasonable requirements means sections 345 and 406.

SPRP (adopted charges) see section 629(5).

State infrastructure provider means—

- (a) the chief executive; or
- (b) a public sector entity, other than a local government, that provides State infrastructure or administers a regional plan for a designated region.

State-related condition see section 666(1).

subject premises see section 645(1).

submission means written submission.

trunk infrastructure, for a provision about a local government, means all of the following—

- (a) development infrastructure identified in the LGIP as trunk infrastructure;
- (b) development infrastructure that, because of a conversion application, becomes trunk infrastructure;
- (c) development infrastructure that is required to be provided under a condition imposed under section 647(2).

Note—

Until 1 July 2016, identification of trunk infrastructure may also take place by resolution. See, for example, section 979.

628 References in ch 8

- (1) A reference in a provision of this chapter to a person or matter as follows (the ***subject***) is a reference to the other person or matter stated for the subject—
 - (a) for ‘the applicant’—
 - (i) for a provision about a development approval—the applicant for the approval and anyone else in whom the

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- benefit of the application vests from time to time; or
- (ii) for a charge matter—the applicant for the relevant development approval;
- (b) for ‘the development’—
- (i) for a provision about a development approval—the development the subject of the approval; or
 - (ii) for a provision about a condition of a development approval—the development the subject of the development approval of which the condition is a part; or
 - (iii) for a provision about a charge matter—the development the subject of the relevant development approval;
- (c) for ‘the land’—
- (i) for a provision about a development approval—the land the subject of the approval; or
 - (ii) for a provision about a levied charge or infrastructure charges notice—the land to which the levied charge, or the levied charge under the notice, attaches;
- (d) for ‘the premises’—
- (i) for a provision about a development approval—the land the subject of the approval; or
 - (ii) for a provision about a charge matter—the land the subject of the relevant development approval;
- (e) for ‘the PIA’—

- (i) for a provision about a local government—the local government’s PIA; or
 - (ii) for a provision about a development application or condition of a development approval—the relevant local government’s PIA;
- (f) for ‘the LGIP’—
- (i) for a provision about a local government—the local government’s LGIP; or
 - (ii) for a provision about a development application or condition of a development approval—the relevant local government’s LGIP.
- (2) In this section—
- charge matter*** means an adopted charge, infrastructure charges notice or levied charge.
- relevant development approval***, for a charge matter, means the development approval to which the matter relates or will relate.

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Part 2 Provisions for local governments

Division 1 Charges for trunk infrastructure

Subdivision 1 Power to adopt charges

629 State planning regulatory provision governing charges

- (1) A State planning regulatory provision may impose a maximum for each adopted charge—
 - (a) under this chapter in relation to providing trunk infrastructure for development; or
 - (b) under the SEQ Water Act in relation to providing trunk infrastructure.
- (2) The Minister may, by gazette notice, change the amount of a maximum adopted charge.
- (3) Any increase under subsection (2) in a maximum adopted charge over a financial year must not be more than an amount equal to the amount of the maximum adopted charge at the start of the financial year multiplied by the 3-year moving average annual percentage increase in the PPI index for the period of 3 years ending at the start of the financial year.
- (4) The SPRP (adopted charges) may also—
 - (a) provide for the charges breakup; and
 - (b) state development for which there may be an adopted charge under this chapter or land uses for which there may be an adopted charge under the SEQ Water Act for trunk infrastructure; and

(c) provide for the parameters mentioned in section 633(2).

(5) In this section—

maximum adopted charge means the maximum for an adopted charge imposed under an SPRP (adopted charges) as mentioned in subsection (1) as the amount of that maximum is changed, from time to time, under subsection (2).

SPRP (adopted charges) means a State planning regulatory provision that imposes a maximum for each adopted charge under this chapter.

630 Power to adopt charges by resolution

(1) A local government may, by resolution (a ***charges resolution***), adopt charges (each an ***adopted charge***) for providing trunk infrastructure for development.

(2) However—

(a) a charges resolution does not, of itself, levy an infrastructure charge; and

(b) the making of a charges resolution is subject to this subdivision and subdivision 2; and

(c) an adopted charge must not be for—

(i) work or use of land authorised under the *Greenhouse Gas Storage Act 2009*, the *Mineral Resources Act 1989*, the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or

(ii) development in a priority development area under the *Economic Development Act 2012*.

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- (3) A charges resolution must state the day when an adopted charge under the resolution is to take effect.

Note—

See section 634(2).

Subdivision 2 Charges resolutions

631 Contents—general

- (1) An adopted charge may be made only if it is—
 - (a) permitted under the SPRP (adopted charges); and
 - (b) no more than the maximum adopted charge for providing trunk infrastructure for development.

Note—

See also section 632(5).

- (2) There may be different adopted charges for developments in different parts of the local government's area.
- (3) Also, a charges resolution may do the following—
 - (a) declare there is no adopted charge for part or all of the relevant local government area;
 - (b) provide for automatic increases in levied charges from when they are levied to when they are paid (an *automatic increase provision*).
- (4) However, an automatic increase provision must state how increases under it are to be worked out.
- (5) Also, the automatic increase must not be more than the lesser of the following—

-
- (a) the difference between the levied charge and the maximum adopted charge the local government could have levied for the development when the charge is paid;
 - (b) the increase for the PPI index for the period starting on the day the levied charge was levied and ending on the day it is paid, adjusted by reference to the 3-yearly PPI index average.
- (6) In this section—
- 3-yearly PPI index average** means the PPI index smoothed in accordance with the 3-year moving average quarterly percentage change between quarters.

632 Provisions for participating local governments and distributor-retailers

- (1) This section applies to each of the following (the *parties*)—
 - (a) a local government that, under the SEQ Water Act, is a participating local government for a distributor-retailer;
 - (b) the distributor-retailer.
- (2) The parties may agree about the charges breakup (a *breakup agreement*).
- (3) A breakup agreement prevails over a charges breakup under the SPRP (adopted charges).
- (4) A charges resolution of the local government must state the charges breakup for all adopted charges under the resolution.
- (5) However, the adopted charges must not be more than the proportion of the maximum adopted charges the local government may have under—

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- (a) a breakup agreement to which it is a party;
or
 - (b) if it is not a party to a breakup agreement—the SPRP (adopted charges).
- (6) Subsection (7) applies if there is a charges resolution of the local government and the parties later enter into a breakup agreement with a different charges breakup from the resolution.
- (7) The breakup agreement does not take effect until the later of the following—
- (a) the local government makes a new charges resolution that reflects the agreement;
 - (b) the distributor-retailer adopts a new infrastructure charge schedule that reflects the agreement.

633 Working out cost of infrastructure for offset or refund

- (1) For the purpose of working out an offset or refund under this part, a charges resolution must include a method for working out the cost of the infrastructure the subject of the offset or refund.
- (2) The method must be consistent with the parameters for the purpose provided for under—
 - (a) the SPRP (adopted charges); or
 - (b) if the parameters are not provided for under the SPRP (adopted charges)—a guideline made by the Minister and prescribed by regulation.

633A Criteria for deciding conversion application

- (1) A charges resolution must include criteria for deciding a conversion application.

- (2) The criteria must be consistent with parameters for the criteria provided for under a guideline made by the Minister and prescribed by regulation.

634 Steps after making charges resolution

- (1) On making a charges resolution, a local government must—
 - (a) upload and keep the resolution on its website; and
 - (b) attach the resolution to each copy of its planning scheme that it gives to, or publishes for, others.

Note—

A charges resolution is not part of a planning scheme even if it is attached to the scheme.

- (2) The charges under the charges resolution take effect—
 - (a) if the charges resolution is uploaded on the relevant local government website before the beginning of the day stated in the resolution as the day for the charges to take effect—on the day stated in the resolution; or
 - (b) otherwise—on the day the charges resolution is uploaded on the website.

Subdivision 3 Levying charges

635 When charge may be levied and recovered

- (1) This section applies if—
 - (a) a development approval has been given; and

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- (b) an adopted charge applies for providing the trunk infrastructure for the development; and
 - (c) section 205 does not apply to the development.
- (2) The local government must give the applicant an infrastructure charges notice.

Note—

Under section 364, a local government may give a new infrastructure charges notice for a negotiated decision notice.

- (3) The local government may give the notice only—
- (a) generally—
 - (i) if it is the assessment manager—on, or as soon as practicable after, the giving of the development approval; or
 - (ii) if it is a concurrence agency—within 10 business days after it receives a copy of the development approval; or
 - (b) if the development approval is a deemed approval for which a decision notice has not been given—within 20 business days after the local government receives a copy of the deemed approval notice; or
 - (c) if paragraphs (a) and (b) do not apply—within 20 business days after the local government receives a copy of the development approval.
- (4) Subsection (3) is subject to any provision under which an infrastructure charges notice may be amended or replaced.

Note—

See sections 626(3), 643(1), 657(3) and 662(4)(b).

-
- (5) The infrastructure charges notice lapses if the development approval stops having effect.
 - (6) If the infrastructure charges notice levies on the applicant an amount for a charge worked out by applying the adopted charge (a *levied charge*), the following apply for the levied charge—
 - (a) its amount is subject to sections 636 and 649;
 - (b) it is payable by the applicant;
 - (c) it attaches to the land;
 - (d) it only becomes payable as provided for under subdivision 4;
 - (e) it is subject to any agreement under section 639(1).

636 Limitation of levied charge

- (1) A levied charge may be only for additional demand placed upon trunk infrastructure that will be generated by the development.
- (2) In working out additional demand, the demand on trunk infrastructure generated by the following must not be included—
 - (a) an existing use on the premises if the use is lawful and already taking place on the premises;
 - (b) a previous use that is no longer taking place on the premises if the use was lawful at the time it was carried out;
 - (c) other development on the premises if the development may be lawfully carried out without the need for a further development permit.

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- (3) However, the demand generated by a use or development mentioned in subsection (2) may be included if an infrastructure requirement that applies or applied to the use or development has not been complied with.
- (4) In this section—
- charges notice* means—
- (a) an infrastructure charges notice; or
 - (b) a notice mentioned in section 977(1).
- infrastructure requirement* means a charges notice, or a condition of a development approval, that requires infrastructure or a payment in relation to demand on trunk infrastructure.

637 Requirements for infrastructure charges notice

- (1) An infrastructure charges notice must state all of the following for the levied charge—
- (a) its current amount;
 - (b) how it has been worked out;
 - (c) the land;
 - (d) when it will be payable under section 638 (without considering any possible operation of section 639);
 - (e) if an automatic increase provision applies—
 - (i) that it is subject to automatic increases; and
 - (ii) how the increases are worked out under the provision;
 - (f) whether an offset or refund under this part applies and, if so, details of the offset or refund, including when the refund will be given.

- (2) The infrastructure charges notice must also include, or be accompanied by, an information notice about the decision to give the notice.

Subdivision 4 Payment

638 Payment triggers generally

- (1) A levied charge becomes payable—
 - (a) if the charge applies for reconfiguring a lot—when the local government that levied the charge approves the plan of subdivision for the reconfiguration; or
 - (b) if the charge applies for building work—when the certificate of classification or final inspection certificate for the building work is given; or
 - (c) if the charge applies for a material change of use—when the change happens; or
 - (d) if the charge applies for other development—on the day stated in the infrastructure charges notice under which the charge was levied.
- (2) This section is subject to section 639.

639 Agreements about payment or provision instead of payment

- (1) The recipient of an infrastructure charges notice and the local government that gave it may agree about either or both of the following—
 - (a) whether the levied charge under the notice may be paid other than as required under section 638 including whether it may be paid by instalments;

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- (b) whether infrastructure may be provided instead of paying part or all of the levied charge.
- (2) If the levied charge is subject to an automatic increase provision, the agreement must state how increases in the charge are payable under the agreement.

Subdivision 5 Changing charges during relevant appeal period

640 Application of sdiv 5

This subdivision applies to the recipient of an infrastructure charges notice (the *original notice*) given by a local government.

641 Submissions for infrastructure charges notice

During the relevant appeal period, the recipient may make submissions to the local government about the original notice.

642 Consideration of submissions

The local government must consider the submissions.

643 Decision about submissions

- (1) If the local government decides it agrees with a submission, it must, within 5 business days after making the decision, give the recipient a new infrastructure charges notice (a *negotiated notice*).
- (2) The local government may give only 1 negotiated notice.

- (3) A negotiated notice—
 - (a) must be in the same form as the original notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the original notice.
- (4) If the local government decides it does not agree with any of the submissions, it must, within 5 business days after making the decision, give the recipient a notice stating the decision.
- (5) Despite another provision of this Act, the relevant appeal period for the infrastructure charges notice starts again when the recipient is given the notice under subsection (4).

644 Suspension of relevant appeal period

- (1) If the recipient needs more time to make submissions, the recipient may give the local government a notice (a *suspension notice*) suspending the relevant appeal period.
- (2) The recipient may give only 1 suspension notice.
- (3) If the submissions are not made within 20 business days after the giving of the suspension notice, the balance of the relevant appeal period restarts.
- (4) If submissions are made within the 20 business days and the recipient gives the local government a notice withdrawing the suspension notice, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

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Division 2 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

645 Application and operation of sdiv 1

- (1) This subdivision applies if trunk infrastructure necessary to service premises the subject of a development application (the *subject premises*)—
 - (a) has not been provided; or
 - (b) has been provided but is inadequate.
- (2) Sections 646 and 647 provide for a local government to be able to impose particular conditions on the development approval (each condition is a *necessary infrastructure condition*).

646 Necessary infrastructure condition for LGIP-identified infrastructure

- (1) This section applies if the LGIP identifies adequate trunk infrastructure to service the subject premises.
- (2) The local government may impose a condition requiring either or both of the following to be provided at a stated time—
 - (a) the identified infrastructure;
 - (b) different trunk infrastructure delivering the same desired standard of service.

647 Necessary infrastructure condition for other infrastructure

- (1) This section applies if the LGIP does not identify adequate trunk infrastructure to service the subject premises.
- (2) The local government may impose a condition on a development approval that requires development infrastructure necessary to service the premises to be provided at a stated time.

Note—

See section 627, definition *trunk infrastructure*.

- (3) However, a local government may impose a condition under subsection (2) only if the infrastructure is development infrastructure that services development—
 - (a) consistent with the assumptions about the type, scale, location or timing of future development stated in the LGIP; and
 - (b) for premises completely inside the PIA.

648 Deemed compliance with necessary or reasonable requirements

- (1) A necessary infrastructure condition is taken to comply with the relevant or reasonable requirements if—
 - (a) generally, the infrastructure required is—
 - (i) necessary to service the subject premises; and
 - (ii) the most efficient and cost-effective solution for servicing other premises in the general area of the subject premises; and
 - (b) for a necessary infrastructure condition that requires the provision of the infrastructure

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on the subject premises—its provision is not an unreasonable imposition on—

- (i) the development; or
 - (ii) the use of the subject premises as a consequence of the development.
- (2) To remove any doubt, it is declared that a necessary infrastructure condition may be imposed for infrastructure even if it will service premises other than the subject premises.

649 Offset or refund requirements

- (1) This section applies if—
- (a) trunk infrastructure the subject of a necessary infrastructure condition services, or is planned to service, premises other than the subject premises; and
 - (b) an adopted charge applies to the development.
- (2) If the cost of the infrastructure required to be provided under the condition is equal to or less than the amount worked out by applying the adopted charge to the development, the cost must be offset against that amount.

Note—

For how the cost is worked out, see sections 633 and 657.

- (3) If the cost of the infrastructure required to be provided under the condition is more than the amount worked out by applying the adopted charge to the development—
- (a) there is no amount payable for the development approval; and
 - (b) the local government must refund the applicant the proportion of the

establishment cost of the trunk infrastructure that may be apportioned reasonably to users of premises other than the subject premises.

Example—

A necessary infrastructure condition of a development approval requires transport infrastructure to be provided. The cost of the transport infrastructure is \$500000. Adopted charges apply to the development at a total amount of \$600000. The cost of the infrastructure under the necessary infrastructure condition (\$500000) must be offset against the total amount worked out by applying the adopted charge to the development (\$600000), rather than offsetting it only against the part of the charge relating to transport infrastructure.

Subdivision 2 Conditions for additional trunk infrastructure costs

650 Power to impose

- (1) A local government may impose a condition (an *additional payment condition*) requiring the payment of additional trunk infrastructure costs only if—
 - (a) the development—
 - (i) will generate infrastructure demand of more than that required to service the type or scale of future development that the LGIP assumes; or
 - (ii) will require new trunk infrastructure earlier than when identified in the LGIP; or
 - (iii) is for premises completely or partly outside the PIA; and
 - (b) the development would impose additional trunk infrastructure costs on the local

[s 18]

government after taking into account either or both of the following—

- (i) levied charges for the development;
 - (ii) trunk infrastructure provided, or to be provided, by the applicant under this part.
- (2) However, an additional payment condition must not be imposed for a State infrastructure provider.
 - (3) An additional payment condition is taken to comply with the relevant or reasonable requirements to the extent the infrastructure is necessary, but not yet available, to service the development.
 - (4) Subsection (3) applies even if the infrastructure is also intended to service other development.
 - (5) The power to impose an additional payment condition is subject to the rest of this subdivision.

651 Content of additional payment condition

- (1) An additional payment condition must state all of the following—
 - (a) why it was imposed;
 - (b) the amount of the payment to be made under the condition;
 - (c) details of the trunk infrastructure for which the payment is required;
 - (d) when the amount becomes payable (the *payment time*);
 - (e) that the applicant may, instead of making the payment, elect to provide part or all of the trunk infrastructure;
 - (f) if the applicant so elects—

-
- (i) any requirements for providing the trunk infrastructure; and
 - (ii) when it must be provided.
- (2) Unless the applicant and the local government otherwise agree, the payment time is—
- (a) if the trunk infrastructure is necessary to service the premises—by the day the development, or work associated with the development, starts; or
 - (b) otherwise—
 - (i) if the additional payment condition applies for reconfiguring a lot—when the local government approves the plan of subdivision for the reconfiguration; or
 - (ii) if the additional payment condition applies for building work—when the certificate of classification or final inspection certificate for the work is given; or
 - (iii) if the additional payment condition applies for a material change of use—when the change happens.

652 Restriction if development completely in PIA

- (1) This section applies for an additional payment condition imposed by a local government for development completely inside the PIA.
- (2) The additional payment condition may require a payment only as follows—
 - (a) for trunk infrastructure to be provided earlier than planned in the LGIP, the difference between—

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- (i) the establishment cost of the infrastructure made necessary by the development; and
 - (ii) the amount of any charge paid for the development;
- (b) for infrastructure associated with a different type or scale of development from that assumed in the LGIP—the establishment cost of any additional trunk infrastructure made necessary by the development.

653 Other area restrictions

- (1) This section applies for an additional payment condition imposed by a local government for development completely or partly outside the PIA.
- (2) The additional payment condition may only require the payment of—
 - (a) the establishment cost of infrastructure that is—
 - (i) made necessary by the development; and
 - (ii) if the relevant local government’s planning scheme indicates the premises is part of an area intended for future development for non-rural purposes—necessary to service the rest of the area; and
 - (b) either or both of the following establishment costs of any temporary infrastructure—
 - (i) costs required to ensure the safe or efficient operation of infrastructure needed to service the development;

- (ii) costs made necessary by the development; and
- (c) any decommissioning, removal and rehabilitation costs of the temporary infrastructure; and
- (d) the maintenance and operating costs for up to 5 years of the infrastructure and temporary infrastructure as mentioned in paragraphs (a) and (b).

654 Refund if development in PIA

- (1) This section applies for an additional payment condition imposed by a local government for development completely inside the PIA.
- (2) The local government must refund the payer the proportion of the establishment cost of the infrastructure that—
 - (a) may be apportioned reasonably to other users of the infrastructure; and
 - (b) has been, is or is to be, the subject of a levied charge by the local government.

655 Refund if development approval ceases

- (1) This section applies if—
 - (a) a development approval subject to an additional payment condition no longer has effect; and
 - (b) a payment has been made under the condition; and
 - (c) construction of the infrastructure the subject of the condition has not substantially started before the development approval no longer has effect.

[s 18]

- (2) The local government must refund the payer any part of the payment the local government has not spent, or contracted to spend, on designing and constructing the infrastructure.
- (3) Timing of the refund is subject to terms agreed between the payer and local government.

656 Additional payment condition does not affect other powers

To remove any doubt, it is declared that the imposition of an additional payment condition does not prevent a local government from doing the following—

- (a) adopting charges for trunk infrastructure and levying charges;
- (b) imposing a condition for non-trunk infrastructure;
- (c) imposing a necessary infrastructure condition.

Subdivision 3 Working out cost for required offset or refunds

657 Process

- (1) This section applies if—
 - (a) a development approval requires the applicant to provide trunk infrastructure; and
 - (b) the local government has given the applicant for the development approval an infrastructure charges notice that includes details of an offset or refund under this part relating to the establishment cost of the trunk infrastructure; and

-
- (c) the applicant does not agree with the value of the establishment cost.
 - (2) The applicant may, by notice to the local government, require it to use the method under the relevant charges resolution to recalculate the establishment cost.
 - (2A) A notice under subsection (2) must be given to the local government before the levied charge under the infrastructure charges notice becomes payable under section 638.
 - (3) By notice to the applicant, the local government must amend the existing infrastructure charges notice.
 - (4) The amended infrastructure charges notice must adopt the method to work out the establishment cost.

Division 3 Miscellaneous provisions about trunk infrastructure

Subdivision 1 Conversion of particular non-trunk infrastructure before construction starts

658 Application of sdiv 1

This subdivision applies if—

- (a) a particular condition of a development approval under section 665 requires non-trunk infrastructure to be provided; and
- (b) the construction of the non-trunk infrastructure has not started.

Note—

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The combined effect of the definitions *trunk infrastructure* and *non-trunk infrastructure* under section 627 is that where infrastructure is not identified in an LGIP it is, by default, non-trunk infrastructure.

659 Application to convert infrastructure to trunk infrastructure

- (1) The applicant for the development approval may apply (a *conversion application*) to convert non-trunk infrastructure to trunk infrastructure.
- (2) The application must be made to the local government in writing.

660 Deciding conversion application

- (1) The local government must consider and decide the conversion application within the required period.
- (2) In deciding the conversion application, the local government must have regard to the criteria for deciding the application in its charges resolution.
- (3) However, at any time before making the decision, the local government may give a notice to the applicant requiring the applicant to give information the local government reasonably needs to make the decision.
- (4) The notice must state—
 - (a) what information it requires; and
 - (b) a period of at least 10 business days for giving the information; and
 - (c) the effect of subsection (5).
- (5) The application lapses if the applicant does not comply with the notice within the later of the following—

-
- (a) the period stated in the notice for giving the information;
 - (b) any later period, as agreed within the period stated in the notice, between the local government and the applicant.
- (6) In this section—
- required period*** means 30 business days after—
- (a) generally—the making of the application; or
 - (b) if an information requirement is made—the requirement is complied with.

661 Notice of decision

- (1) As soon as practicable after deciding the conversion application, the local government must give the applicant notice of the decision.
- (2) If the decision is to convert non-trunk infrastructure to trunk infrastructure, the notice must state whether an offset or refund under this part applies and, if it does, details of the offset or refund.
- (3) If the decision is not to convert non-trunk infrastructure to trunk infrastructure, the notice must be an information notice about the decision.

662 Effect of and action after conversion

- (1) This section applies if the decision on a conversion application is to convert non-trunk infrastructure to trunk infrastructure.

Note—

See section 627, definition *trunk infrastructure*.

- (2) The condition of the relevant development approval requiring the non-trunk infrastructure to be provided no longer has effect.

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- (3) Within 20 business days after making the decision, the local government may amend the development approval by imposing a necessary infrastructure condition for the trunk infrastructure.
- (4) If a necessary infrastructure condition is imposed, the local government must also do either of the following within 10 business days after the imposition for the purposes of section 649(2) or (3)(b)—
 - (a) give an infrastructure charges notice;
 - (b) amend, by notice to the applicant, any existing infrastructure charges notice for the development approval.
- (5) For taking action under subsections (3) and (4), divisions 1 and 2 and sections 478 and 535 apply (and IDAS does not) as if—
 - (a) a development approval were a reference to the conversion; and
 - (b) a levied charge were a reference to the amendment of a levied charge.

Subdivision 2 Other provisions

663 Financial provisions

- (1) A levied charge paid to a local government must be used to provide trunk infrastructure.
- (2) To remove any doubt, it is declared that the amount paid need not be held in trust by the local government.

664 Levied charge taken to be rates

- (1) A levied charge is, for the purpose of its recovery, taken to be rates of the local government that levied it.
- (2) However, subsection (1) is subject to any agreement between the local government and the applicant.
- (3) In this section—
rates means rates within the meaning of—
 - (a) for Brisbane—the City of Brisbane Act; or
 - (b) otherwise—the Local Government Act.

Division 4 Non-trunk infrastructure

665 Conditions local governments may impose

- (1) This section applies for the imposition by a local government of a condition of a development approval about non-trunk infrastructure.
- (2) The condition may be only about providing development infrastructure for 1 or more of the following—
 - (a) a network, or part of a network, internal to the premises;
 - (b) connecting the premises to external infrastructure networks;
 - (c) protecting or maintaining the safety or efficiency of the infrastructure network of which the non-trunk infrastructure is a component.

Example for paragraph (c)—

A condition may require construction works in the vicinity of existing transport infrastructure must not adversely affect the infrastructure's integrity.

[s 18]

- (3) The condition must state the infrastructure to be provided and when it must be provided.

Part 3 Provisions for State infrastructure providers

666 Power to impose conditions about infrastructure

- (1) A State infrastructure provider may impose a condition on a development approval (a *State-related condition*) about—
 - (a) infrastructure; and
 - (b) works to protect or maintain infrastructure operation.
- (2) However, a State-related condition may be only about protecting or maintaining the safety or efficiency of any or all of the following—
 - (a) existing or proposed State-owned or State-controlled transport infrastructure;
 - (b) public passenger transport or public passenger transport infrastructure (whether or not State-owned or State-controlled);
 - (c) the safety or efficiency of railways, ports or airports under the Transport Infrastructure Act;
 - (d) if the State infrastructure provider is the chief executive—a matter mentioned in paragraph (a), (b) or (c) for another State infrastructure provider.

Examples of infrastructure that might be required under a State-related condition—

- turning lanes or traffic signals at a site access or nearby intersection that are to ensure road links and intersections continue to perform at an acceptable level
- upgraded traffic control devices at a level crossing in response to increased traffic
- drainage or retaining structures that are to protect transport infrastructure from changed hydraulics or excavation adjacent to State-owned or State-controlled transport infrastructure

(3) In this section—

public passenger transport means the carriage of passengers by a public passenger service as defined under the *Transport Operations (Passenger Transport) Act 1994* using a public passenger vehicle as defined under that Act.

public passenger transport infrastructure means infrastructure for, or associated with, the provision of public passenger transport.

safety or efficiency, of infrastructure mentioned in subsection (2), means—

- (a) the safety of any of its users and of others it affects; or
- (b) the efficiency of its use.

State-owned or State-controlled, for transport infrastructure, means transport infrastructure under the Transport Infrastructure Act that is owned or controlled by the State.

667 Content requirements for condition

A State-related condition must state—

- (a) the infrastructure or works to be provided, or the contribution to be made, under it; and

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- (b) when the provision or contribution must take place.

668 Refund if State-related condition ceases

- (1) This section applies if—
 - (a) a State infrastructure provider imposed a State-related condition on a development approval; and
 - (b) a payment has been made under the condition; and
 - (c) the development approval ceases to have effect; and
 - (d) construction of the infrastructure the subject of the condition had not substantially started before the cessation.
- (2) The public sector entity responsible for providing the infrastructure must refund the payer any part of the payment not spent, or contracted to be spent, on designing or constructing the infrastructure before being told of the cessation.

669 Reimbursement by local government for replacement infrastructure

- (1) This section applies if infrastructure provided under a State-related condition—
 - (a) has replaced, or is to replace, infrastructure for which there has been, is or is to be a levied charge by a local government; and
 - (b) provides the same desired standard of service as the replaced infrastructure.
- (2) The local government must—

- (a) pay the amount of the levied charge, when paid to it, to the State infrastructure provider that imposed the condition to—
 - (i) provide the replacement infrastructure; or
 - (ii) reimburse someone else who provided the replacement infrastructure; and
- (b) agree with the State infrastructure provider and the person who provided the replacement infrastructure about when the amount of the levied charge will be paid.

Part 4 Infrastructure agreements

670 Infrastructure agreement

An *infrastructure agreement* is an agreement, as amended from time to time, mentioned in any of the following—

- section 348, to the extent the agreement is about a condition for paying for, or providing, infrastructure
- section 639
- section 651(2)
- section 655(3)
- section 664(2)
- section 669(2)
- section 677.

671 Obligation to negotiate in good faith

- (1) This section applies if—
 - (a) a public sector entity proposes to another entity that they enter into an infrastructure agreement; or
 - (b) another entity proposes to a public sector entity that they enter into an infrastructure agreement.
- (2) The public entity or other entity to whom the proposal is made must in writing tell the proponent if the public entity or other entity agrees to entering into negotiation for an infrastructure agreement.
- (3) In negotiating an infrastructure agreement, the public sector entity and the other entity must act in good faith.

Examples of actions that subsection (3) requires—

- disclosing to the other party to the negotiation in a timely way information relevant to entering into the proposed agreement
- considering and responding in a timely way to the other party's proposals about the proposed agreement
- giving reasons for each response

672 Content of infrastructure agreement

- (1) An infrastructure agreement must—
 - (a) if obligations under it would be affected by a change in the ownership of land the subject of the agreement—include a statement about how the obligations must be fulfilled in that event; and
 - (b) if the fulfilment of obligations under it depends on development entitlements that may be affected by a change to a planning

instrument—include a statement about both of the following—

- (i) refunding or reimbursing amounts paid under the agreement;
 - (ii) changing or cancelling the obligations if the development entitlements are changed without the obligee's consent; and
- (c) include any other matter required by regulation to be included.
- (2) To remove any doubt, it is declared that an infrastructure agreement may include matters that are not within the jurisdiction of a public sector entity that is a party to the agreement.

673 Copy of infrastructure agreement to be given to local government

- (1) This section applies if—
- (a) a distributor-retailer or a public sector entity other than a local government is a party to an infrastructure agreement; and
 - (b) the local government for the area to which the agreement applies is not a party to it.
- (2) The distributor-retailer or public sector entity must give the local government a copy of the agreement.

673A Copy of particular infrastructure agreements to be given to distributor-retailers

- (1) This section applies if—
- (a) a participating local government for a distributor-retailer is a party to an infrastructure agreement; and

[s 18]

- (b) the distributor-retailer is not a party to the infrastructure agreement; and
 - (c) the infrastructure agreement relates to a water approval or an application for a water approval under the SEQ Water Act, chapter 4C, part 2.
- (2) The local government must give the distributor-retailer a copy of the agreement.

674 When infrastructure agreement binds successors in title

- (1) This section applies if the owner of land to which an infrastructure agreement applies is a party to the agreement or consents to the obligations under it being attached to the land.
- (2) However, subsection (1) does not apply for any of the obligations that are to be fulfilled by a public sector entity.
- (3) The obligations under the infrastructure agreement attach to the land and bind the owner and the owner's successors in title of the land.
- (4) If the owner's consent under subsection (1) is given but not endorsed on the agreement, the owner must give a copy of the document evidencing the owner's consent to the local government for the land to which the consent applies.
- (5) Despite subsection (3), subsections (6) and (7) apply if—
 - (a) the infrastructure agreement states that if the land is subdivided, part of the land is to be released from the obligations; and
 - (b) the land is subdivided.
- (6) The part is released from the obligations.

- (7) The obligations are no longer binding on the owner of the part.

675 Exercise of discretion unaffected by infrastructure agreement

An infrastructure agreement is not invalid merely because its fulfilment depends on the exercise of a discretion by a public sector entity about an existing or future development application.

676 Infrastructure agreement prevails over approval and charges notice

- (1) If an infrastructure agreement is inconsistent with a development approval or charges notice, the agreement prevails to the extent of the inconsistency.
- (2) However, if a State infrastructure provider (other than the chief executive) is a party to the infrastructure agreement, subsection (1) applies only if the chief executive has approved the agreement.
- (3) The approval of the agreement must be given by notice to all parties to it.
- (4) In this section—
charges notice means—
- (a) an infrastructure charges notice; or
 - (b) a notice mentioned in section 977(1).

677 Agreement for infrastructure partnerships

- (1) A person may enter into an agreement with a public sector entity about—
- (a) providing or funding infrastructure; or

[s 18]

- (b) refunding payments made towards the cost of providing or funding infrastructure.
- (2) Subsection (1) has effect despite parts 2 and 3 and chapter 6, part 5, division 6.

Part 5 Miscellaneous

678 Sale of particular local government land held on trust

- (1) This section applies if a local government intends to sell land it holds on trust in fee simple for public parks infrastructure or local community facilities.
- (2) The local government must advertise its intention to sell the land by placing notice of the sale in a newspaper circulating in the local government area if—
 - (a) part or all of the land was obtained under a condition of a development approval; or
 - (b) selling the land would not be inconsistent with a current infrastructure agreement under which the local government obtained the land.
- (3) The notice must state the following—
 - (a) a description of the land;
 - (b) the purpose for which the land is held on trust;
 - (c) the reason for the proposed sale;
 - (d) a reasonable period within which submissions about the proposed sale may be made to the local government.

-
- (4) Before making a decision about the sale, the local government must consider all submissions made to it within the stated period.
 - (5) The following apply if the local government complies with this section and sells the land—
 - (a) the land is sold free of the trust;
 - (b) the net proceeds of the sale must be used to provide trunk infrastructure.

679 Conditions about non-trunk infrastructure if no LGIP etc.

- (1) This section applies if the trunk infrastructure for a local government is not identified because paragraphs (a), (b) and (c) of the definition *trunk infrastructure* under section 627 do not apply.
- (2) The local government may impose a condition on a development approval for the supply of development infrastructure for 1 or more of the purposes mentioned in section 665(2).
- (3) The condition must state the infrastructure to be provided and when it must be provided.

18A Amendment of ch 10, pt 9, hdg

Chapter 10, part 9, heading, ‘provision’—

omit, insert—

provisions

18B Insertion of new ss 959A to 959I

Chapter 10, part 9—

insert—

959A Definitions for pt 9

In this part—

[s 18B]

amended Act means this Act as in force after the commencement.

amending Act means the *Water Supply Services Legislation Amendment Act 2014*.

commencement means the commencement of the amending Act, section 30.

former, in relation to a provision, means the provision as in force immediately before the repeal or amendment of the provision under the amending Act.

unamended Act means this Act as in force immediately before the commencement.

water connection aspect, of a development application or development approval, means an aspect of the application or approval that is for a matter for which a distributor-retailer or its delegate has a concurrence role under the amended Act.

959B Distributor-retailer or participating local government continues as concurrence agency for existing applications

- (1) This section applies if—
 - (a) a development application was made, but not decided, before the commencement; and
 - (b) the development application involves a water connection aspect.
- (2) For dealing with and deciding the development application, the following entity continues to be a concurrence agency for the water connection aspect—
 - (a) if the distributor-retailer has delegated its functions as a concurrence agency for the application to its participating local

government—the participating local government;

(b) otherwise—the distributor-retailer.

- (3) The unamended Act continues to apply to the development application as if the amending Act had not been enacted.

Note—

See also the SEQ Water Act, section 140C.

- (4) However, if the development application is for a material change of use of premises or reconfiguring a lot, the unamended Act applies to the application only until a development approval takes effect for the application.
- (5) To avoid any doubt, it is declared that after a development approval for an application mentioned in subsection (4) takes effect, this Act does not apply to the water connection aspect of the development approval.

959C Related applications

- (1) This section applies if—
- (a) for a development approval (an *original approval*) given before the commencement—another development application (a *related application*) for a development approval related to the original approval is made; and
- (b) the related application involves a water connection aspect.
- (2) For dealing with and deciding the related application, the following entity is taken to be a concurrence agency for the water connection aspect—

[s 18B]

- (a) if the distributor-retailer has delegated its functions as a concurrence agency for the application to its participating local government—the participating local government;
 - (b) otherwise—the distributor-retailer.
- (3) The unamended Act continues to apply to the related application as if the amending Act had not been enacted.

Note—

See also the SEQ Water Act, section 140C.

- (4) However, if the related application is for a material change of use of premises or reconfiguring a lot, the unamended Act applies to the application only until a development approval takes effect for the application.
- (5) To avoid any doubt, it is declared that after a development approval for a related application mentioned in subsection (4) takes effect, this Act does not apply to the water connection aspect of the development approval.

959D Existing staged development approvals

- (1) This section applies if—
- (a) before the commencement, a staged development approval has been granted; and
 - (b) the development approval involves a water connection aspect; and
 - (c) for the same land, or part of the same land, to which the staged development approval relates, a later development application for either of the following would have been made for the water connection aspect, if the amending Act had not commenced—

- (i) reconfiguring a lot;
 - (ii) operational works.
- (2) On and after the commencement, this Act does not apply to the water connection aspect of the staged development approval.
- (3) In this section—
staged development approval means a development approval for reconfiguring a lot.

959E Other development approvals

- (1) This section applies if—
 - (a) before the commencement, a development approval, other than an approval to which section 959D applies, has been given; and
 - (b) the development approval involves a water connection aspect.
- (2) This section also applies to a development approval for operational works that—
 - (a) takes effect for a development application under section 959B or 959C; and
 - (b) involves a water connection aspect.
- (3) The unamended Act continues to apply to the development approval as if the amending Act had not been enacted.
- (4) Without limiting subsection (3), the unamended Act continues to apply to the following for the development approval—
 - (a) a request to change the approval;
 - (b) an appeal about the approval;
 - (c) the levying of charges for the approval;

[s 18B]

- (d) infrastructure agreements and other infrastructure requirements relating to the approval.

Note—

See also the SEQ Water Act, section 140D.

959F Existing compliance assessments

- (1) This section applies if—
 - (a) before the commencement, a compliance assessment for development, a document or work was required under the unamended Act but not completed (an *existing assessment*); and
 - (b) former section 755G or 755H applied to the existing assessment.
- (2) For dealing with the existing assessment, former chapter 9, part 7A, division 4 continues to apply as if the amending Act had not been enacted.

959G Infrastructure charges notices continue in effect etc.

- (1) This section applies to each of the following notices given by a distributor-retailer under the unamended Act before or after the commencement—
 - (a) an infrastructure charges notice;
 - (b) an adopted infrastructure charges notice;
 - (c) a regulated infrastructure charges notice;
 - (d) a negotiated infrastructure charges notice;
 - (e) a negotiated regulated infrastructure charges notice;
 - (f) a negotiated adopted infrastructure charges notice.

- (2) The unamended Act continues to apply to the notice as if the amending Act had not been enacted.

Note—

See also the SEQ Water Act, section 140D.

959H Infrastructure agreements

- (1) This section applies to an infrastructure agreement that—
 - (a) is in force immediately before the commencement; and
 - (b) relates to the infrastructure of a distributor-retailer in relation to its water service or wastewater service.
- (2) The infrastructure agreement continues to have effect and is binding on the parties to the agreement as if the amending Act had not been enacted.

959I Existing land transfer agreements or requirements in lieu of charge

- (1) An existing land transfer agreement, or an existing land transfer requirement, not complied with immediately before the commencement continues to have effect.
- (2) Despite the repeal of former sections 755L and 755MA, the sections continue to apply for the existing land transfer agreement or existing land transfer requirement, as is applicable.
- (3) In this section—

existing land transfer agreement means an agreement mentioned in former section 755L(1)(d) or 755MA(2)(d) or (9)(c).

[s 18C]

existing land transfer requirement means a requirement under former section 755L(2) or 755MA(4).

18C Amendment of s 960 (Transitional regulation-making power)

Section 960(5)—

omit.

19 Insertion of new ch 10, pt 11

Chapter 10—

insert—

Part 11 Savings and transitional provisions for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

Division 1 Purpose of part and definitions

974 Purpose of pt 11

- (1) The purpose of this part is to make particular provisions of a savings or transitional nature.
- (2) Division 2 provides for matters under the unamended Act to be saved and for the unamended Act to continue to apply to those matters.

- (3) Division 3 provides for matters dealt with under the unamended Act to be dealt with under the amended Act unless a provision of division 2 or another provision of division 3 otherwise provides.
- (4) Division 4 provides for other matters including transitional regulations.
- (5) This part does not limit the *Acts Interpretation Act 1954*, section 20 and 20B unless a provision otherwise provides.

975 Definitions for pt 11

In this part—

amended Act means this Act as in force after the commencement.

amending Act means the *Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014*.

commencement means the day the amending Act, section 18 commences.

PIP means a priority infrastructure plan under the unamended Act.

transitional regulation see section 990(1).

unamended Act means this Act as in force immediately before the commencement.

Division 2 Saving provisions

976 Deferment of LGIP requirement for existing planning schemes

- (1) If a planning scheme in effect under the unamended Act does not include a PIP, the

[s 19]

planning scheme need not include an LGIP until 1 July 2016.

- (2) However, on or after 1 July 2016, a local government may not do any of the following unless its planning scheme includes an LGIP—
 - (a) make a charges resolution as mentioned in section 630;
 - (b) impose conditions about trunk infrastructure under section 646, 647 or 650;
 - (c) give an infrastructure charges notice under section 635.

976A Preparing and making PIP under unamended Act

- (1) This section applies if, immediately before the commencement, a local government has started the process under former section 627 to prepare a PIP.
- (2) The local government may continue to prepare and make the PIP under the unamended Act as if the amending Act had not commenced.
- (3) For preparing and making the PIP, the guideline mentioned in former section 627 continues to apply as if the amending Act had not commenced.
- (4) A PIP made under subsection (2) is taken to be an LGIP under the amended Act.
- (5) Section 982(2) and (3) apply to the PIP as made under subsection (2).
- (6) In this section—
former, in relation to a provision, means the provision as in force immediately before the repeal or amendment of the provision under the amending Act.

976B Existing development approvals

- (1) This section applies if, before the commencement, a development approval has been given.
- (2) The unamended Act continues to apply to the development approval as if the amending Act had not been enacted.
- (3) Without limiting subsection (2), the unamended Act continues to apply to the following for the development approval—
 - (a) a request to change the approval;
 - (b) an appeal about the approval;
 - (c) the levying of charges for the approval;
 - (d) infrastructure agreements and other infrastructure requirements relating to the approval.

977 Existing notices

- (1) This section applies to each of the following notices given under the unamended Act before or after the commencement—
 - (a) an infrastructure charges notice;
 - (b) a negotiated infrastructure charges notice;
 - (c) a regulated infrastructure charges notice;
 - (d) a negotiated regulated infrastructure charges notice;
 - (e) an adopted infrastructure charges notice;
 - (f) a negotiated adopted infrastructure charges notice.
- (2) The unamended Act continues to apply to each notice.

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- (3) Despite subsection (2) and section 976B(2), if a person makes a request under section 369(1) to change the development approval the subject of the notice, the notice may be amended under the amended Act.
- (4) However, section 657 does not apply to an infrastructure charges notice as amended under subsection (3).
- (5) Also, subsection (3) does not apply if the notice was given by a distributor-retailer.

Note—

For the amendment of notices given by a distributor-retailer, see the SEQ Water Act, section 140D.

978 Existing charges

- (1) This section applies to each of the following charges that are payable under the unamended Act—
 - (a) an infrastructure charge;
 - (b) a regulated infrastructure charge;
 - (c) an adopted infrastructure charge.
- (2) The unamended Act continues to apply to—
 - (a) each charge; and
 - (b) any offset, refund or repayment under the unamended Act that previously applied to the charge.

979 Charges resolutions until 1 July 2016

- (1) Subject to this section, an adopted infrastructure charges resolution of a local government as in existence under the unamended Act (an *existing*

resolution) continues in effect and is taken to be a charges resolution under the amended Act.

- (1A) Subsection (1) applies even if an existing resolution includes a provision that is contrary to, or does not otherwise comply with, the amended Act.

Example—

An existing resolution continues in effect even if it does not comply with section 630(3), 632(4) or 633(1).

- (1B) A charge adopted under an existing resolution (an **existing charge**) is taken to be an adopted charge under the amended Act and is taken to have had effect on the day it had effect under the unamended Act.

- (1C) However, on and after 1 July 2015—

- (a) an existing resolution ceases to be a charges resolution under the amended Act; and
(b) an existing charge ceases to be an adopted charge under the amended Act.

- (2) Also, an existing resolution or an existing charge is of no effect to the extent it is inconsistent with the SPRP (adopted charges).

- (3) If the existing resolution does not include a method for working out the cost of infrastructure the subject of an offset or refund, the existing resolution is taken to include a method as set out in a guideline—

- (a) made by the Minister; and
(b) prescribed by regulation.

- (3A) If the existing resolution does not include criteria for deciding a conversion application, the existing resolution is taken to include criteria as set out in a guideline—

- (a) made by the Minister; and

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- (b) prescribed by regulation.
- (4) Subsections (5) to (8) apply if the local government's planning scheme does not include an LGIP.
- (5) Until 1 July 2016, an existing resolution may continue to do either or both of the following (each a *saved provision*)—
 - (a) identify development infrastructure as trunk infrastructure for its local government area;
 - (b) for the identified trunk infrastructure, state the required standard of service and establishment costs.
- (6) Despite sections 630 and 631, the local government may, under the amended Act, make a charges resolution that includes a saved provision.
- (7) For applying chapter 8 under the amended Act for subsections (5) and (6), saved provisions are taken to have been done under the LGIP.
- (8) On and after 1 July 2016, each saved provision ceases to have effect.

980 Existing land transfer requirements in lieu of charge

- (1) An agreement mentioned under the unamended Act, section 637(1)(d), or a requirement under the unamended Act, section 637(2), not complied with immediately before the commencement continues in force for the amended Act.
- (2) A requirement under the unamended Act, section 648K(3) not complied with immediately before the commencement continues in force for the amended Act.

- (3) Despite the repeal of the unamended Act, sections 637 and 648K, the sections continue to apply for the agreement or the requirement, as is applicable.

981 Undecided appeals

- (1) This section applies if, before the commencement, a person—
 - (a) had started an appeal and it had not been finally decided before the commencement; or
 - (b) had a right to appeal under the unamended Act but had not started an appeal.
- (2) The unamended Act continues to apply to—
 - (a) the appeal and the right of appeal as mentioned in subsection (1)(a) and (b); and
 - (b) any subsequent appeal that would have been available if the amending Act had not commenced.

Division 3 Transitional provisions

982 PIP to LGIP

- (1) A local government's PIP becomes its LGIP.
- (2) The day the PIP was included in the local government's planning scheme is to be used for working out when the LGIP is to be reviewed under section 94A(1)(a).
- (3) Before 1 July 2016—
 - (a) an amendment to the PIP must be prepared in accordance with the guideline mentioned in section 117(2); and

[s 19]

(b) the amendment must be made.

983 Existing SPRP for adopted charges

- (1) On the commencement, the State Planning Regulatory Provision (adopted charges) dated July 2012 becomes the SPRP (adopted charges) under the amended Act.
- (2) However, the SPRP (adopted charges) mentioned in subsection (1)—
 - (a) continues subject to section 988 and a regulation under the amended Act; and
 - (b) until 1 July 2016—may identify PIAs for local governments.
- (3) On 1 July 2016, any identified PIAs under the SPRP (adopted charges) cease to have effect.

984 Existing application for development approval

- (1) This section applies to an application for a development approval that was not decided under the unamended Act, other than a development application to which section 959B or 959C applies.

Note—

For development applications to which section 959B or 959C applies, see the SEQ Water Act, section 140C.

- (2) The amended Act applies to the application, including, for example, the conditions that may be imposed on the development approval and the charges that may be levied.
- (3) For subsection (2), section 988 applies as if the application had become an application for development approval under the amended Act.

985 Existing agreements under s 648G

- (1) An agreement under the unamended Act, section 648G, as the agreement is in existence immediately before the commencement, becomes a breakup agreement under the amended Act.
- (2) Subsection (1) applies even if the agreement includes a provision contrary to, or does not otherwise comply with, the amended Act.

986 Infrastructure charges register

- (1) This section applies to the following registers of a local government under the unamended Act, section 724 as those registers were in existence immediately before the commencement—
 - (a) its infrastructure charges register;
 - (b) its regulated infrastructure charges register;
 - (c) its adopted infrastructure charges register.
- (2) On the commencement, the registers become part of the local government's infrastructure charges register under the amended Act, section 724.

987 Infrastructure agreements

- (1) An infrastructure agreement in force immediately before the commencement becomes an infrastructure agreement under the amended Act.
- (2) Subsection (1) applies even if the infrastructure agreement includes a provision contrary to, or does not otherwise comply with, the amended Act.
- (3) Also, section 676(2) does not apply to the infrastructure agreement.

988 Consequential provisions

The following apply to a document that, under this division, becomes something under the amended Act—

- (a) it must be read with the changes necessary to make it consistent with, and adapt its operation to, the amended Act;

Example—

In line with section 983, a reference in the existing SPRP to a maximum adopted charge for trunk infrastructure must be read as a reference to a maximum adopted charge under the amended Act.

- (b) a reference to the document in another Act or document is taken to be a reference to what it has become.

Division 4 Other provisions

989 Regulated infrastructure charges schedule

On the commencement, a regulated infrastructure charges schedule in existence before the commencement ceases to exist.

990 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which it is necessary to make provision to allow or facilitate the change from the operation of the unamended Act to the operation of the amended Act.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day of the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.

- (4) This section and any transitional regulation expire 1 year after the day of the commencement.

20 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *adopted infrastructure charge*, *adopted infrastructure charges notice*, *adopted infrastructure charges resolution*, *adopted infrastructure charges schedule*, *building and development committee*, *development infrastructure*, *establishment cost*, *imposing entity*, *information notice*, *infrastructure agreement*, *infrastructure charge*, *infrastructure charges notice*, *infrastructure charges schedule*, *maximum adopted charge*, *negotiated adopted infrastructure charges notice*, *negotiated infrastructure charges notice*, *negotiated regulated infrastructure charges notice*, *network*, *non-trunk infrastructure*, *notice*, *party*, *plans for trunk infrastructure*, *priority infrastructure area*, *priority infrastructure plan*, *rates*, *regulated infrastructure charge*, *regulated infrastructure charges notice*, *regulated infrastructure charges register*, *regulated infrastructure charges schedule*, *relevant appeal period*, *relevant proportion*, *SEQ infrastructure charges schedule*, *State infrastructure provider*, *State planning regulatory provision (adopted charges)* and *trunk infrastructure*—

omit.

- (2) Schedule 3—

insert—

additional payment condition see section 650(1).

adopted charge see section 630(1).

agreement, for chapter 8, see section 627.

amended Act, for part 11, see section 975.

amending Act, for part 11, see section 975.

automatic increase provision, for chapter 8, see section 631(3)(b).

[s 20]

building and development committee means a building and development dispute resolution committee that is established under section 554(2)(a) or 554B(2)(a) or, if the case requires, that may be so established.

charges breakup, for chapter 8, see section 627.

charges resolution see section 630(1).

commencement, for part 11, see section 975.

committee proceeding means a proceeding for which a building and development committee must be established.

conversion application see section 659(1).

court appeal period means the period under this Act for bringing an appeal to the court.

development infrastructure see section 627.

establishment cost, for a provision about trunk infrastructure, see section 627.

impose, for a provision about a condition of a development approval, see section 627.

information notice—

(a) for chapter 8, see section 627; or

(b) for chapter 8A, see section 680A.

infrastructure agreement see section 670.

infrastructure charges notice see section 627.

levied charge see section 635(6).

LGIP see section 627.

maximum adopted charge see section 629(5).

necessary infrastructure condition see section 645(2).

non-rural purposes see section 627.

non-trunk infrastructure see section 627.

notice—

- (a) for chapter 8—see section 627; or
- (b) for chapter 8A—see section 680A.

original notice, for chapter 8, see section 640.

party, for a provision about proceeding before the court or a building and development committee, or proposed proceeding, means any or all of the following for the proceeding or proposed proceeding—

- (a) the applicant or appellant;
- (b) the respondent;
- (c) any co-respondent;
- (d) if the Minister is represented—the Minister.

payer, for a provision about a levied charge, see section 627.

payment, for chapter 8, see section 627.

PIA see section 627.

PIP, for part 11, see section 975.

PPI index see section 627.

public sector entity, for chapter 8, see section 627.

recipient, for a provision about a direction, notice or order, means any person to whom it is given.

relevant appeal period see section 627.

relevant or reasonable requirements see section 627.

SPRP (adopted charges) see section 629(5).

State infrastructure provider see section 627.

State-related condition see section 666(1).

subject premises see section 645(1).

[s 20]

submission, for chapter 8, see section 627.

transitional regulation, for part 11, see section 990(1).

trunk infrastructure see section 627.

unamended Act, for part 11, see section 975.

(3) Schedule 3, definition *deemed refusal*, paragraphs (b) to (d)—
omit, insert—

(b) for a matter as follows—within the period allowed under this Act for the matter to be decided—

(i) a request under section 98(2);

(ii) a request made by a person under section 222(3);

(iii) a request to make a change to a development approval;

(iv) a request to extend a period mentioned in section 341;

(v) a conversion application;

(vi) a claim for compensation under chapter 9, part 3.

(4) Schedule 3, definition *public sector entity*, paragraph 2(b)—
omit, insert—

(b) other than for chapter 8, a distributor-retailer; and

Part 3 Amendment of other Acts

Division 1 South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

21 Act amended

This division amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

Note—

See also the amendments in schedule 2.

22 Amendment of s 99BOB (Charges schedules for distributor-retailers)

Section 99BOB(c) and (d)—

omit, insert—

- (c) adopted charges;

Note—

See chapter 4C, part 7, division 3.

- (d) the way a connection charge, charge for property service infrastructure and adopted charge is calculated;
- (e) the fees for an application or request under chapter 4C;
- (f) the charges breakup for all adopted charges.

22A Amendment of s 99BRAAF (Applying for water approval)

Section 99BRAAF—

insert—

[s 23]

- (2A) However, subsection (2) does not apply to the extent the application relates to a publicly-controlled place.

23 Amendment of s 99BRAG (Decision generally)

Section 99BRAG(2), after ‘division 2’—

insert—

and part 7

24 Amendment of s 99BRAI (Decision notice)

Section 99BRAI(2)(e)—

omit, insert—

- (e) for each water approval condition about trunk or non-trunk infrastructure imposed under this chapter—the provision under which the condition was imposed; and
- (f) the applicant’s rights of internal review and appeal.

25 Amendment of s 99BRAJ (Water approval conditions must be relevant and reasonable)

(1) Section 99BRAJ(2)—

insert—

- (h) trunk infrastructure or non-trunk infrastructure.

(2) Section 99BRAJ(3)—

renumber as section 99BRAJ(4).

(3) Section 99BRAJ—

insert—

- (3) However, a water approval condition must not—

- (a) impose a condition about trunk infrastructure or non-trunk infrastructure unless the condition is permitted to be imposed under part 7, divisions 4 to 6; or
- (b) require a person to enter into a water infrastructure agreement.

26 Amendment of s 99BRAK (Power to amend)

(1) Section 99BRAK(2)—

omit, insert—

(2) The distributor-retailer must decide to—

- (a) approve the request, with or without conditions; or
- (b) refuse the request.

(2) Section 99BRAK(5)—

omit, insert—

(5) If the condition is amended under this section—

- (a) the condition as amended, and any conditions imposed under subsection (2)(a), take effect when the amendment notice is given to the applicant; and
- (b) any conditions imposed under subsection (2)(a) are taken to be water approval conditions of the water approval; and
- (c) the distributor-retailer may give the applicant a new infrastructure charges notice under part 7, division 3, subdivision 3 to replace the original notice if the new infrastructure charges notice relates to the amended condition.

[s 27]

27 Insertion of new s 99BRAM

Chapter 4C, part 2, division 2, subdivision 1—

insert—

99BRAM Water infrastructure agreement terms become water approval conditions

If there is a water infrastructure agreement and a water approval for the same connection, all terms of the agreement are taken to be water approval conditions of the approval.

Note—

For provisions about water infrastructure agreements, see part 7, division 7.

28 Amendment of s 99BRAT (Assessment of connections, water approvals and works)

Section 99BRAT—

insert—

- (2) Subsection (1) does not apply to a connection, including works for the connection, in a priority development area under the *Economic Development Act 2012*.

29 Amendment of s 99BRAU (Requests for standard connections)

- (1) Section 99BRAU(3)(b), from ‘if’ to ‘standard connection’—

omit, insert—

if the land related to the standard connection is land other than a publicly-controlled place and the person making the request is not the owner of the land

- (2) Section 99BRAU(6), note, ‘applies’—

omit, insert—

and part 7, divisions 3 to 7 apply

30 Amendment of s 99BRAW (Meaning of *interested person* and *original decision*)

(1) Section 99BRAW(1)(c)—

omit, insert—

- (c) has had 1 or more of the following charges levied for a connection, other than for a standard connection—
 - (i) a connection charge;
 - (ii) a property service works charge;
 - (iii) a charge under an infrastructure charges notice; or
- (d) has been given a notice under section 99BRDG about a conversion application, or there is a deemed refusal for the application.

(2) Section 99BRAW(2)(c)—

omit, insert—

- (c) the decision to levy a charge for a connection mentioned in subsection (1)(c)(i) or (ii) (a ***charge decision***);
- (d) the decision to give an infrastructure charges notice;
- (e) the refusal or deemed refusal of a conversion application (a ***conversion decision***).

(3) Section 99BRAW—

insert—

- (3) However, for an original decision under subsection (2)(a), an interested person can not appeal a water approval condition that became a condition under section 99BRAM.

[s 31]

31 Replacement of s 99BRAX (Meaning of *standard appeal period*)

Section 99BRAX—

omit, insert—

99BRAX Other definitions for pt 4

In this part—

charge decision see section 99BRAW(2)(c).

conversion decision see section 99BRAW(2)(e).

deemed refusal, for a conversion application, means a refusal of the application that is taken to have happened if a decision is not made within the required period for the application.

required period, for a conversion application, see section 99BRDF(6).

standard appeal period, for an appeal under division 3 or 4, means—

- (a) if the notice for the review decision is given to the interested person—within 20 business days after the notice was given; and
- (b) otherwise—within 20 business days after the review decision is taken to have been made under section 99BRBC(4).

32 Amendment of s 99BRBA (Requirements for making internal review application)

Section 99BRBA(c)—

omit, insert—

- (c) made within 30 business days after the day—
 - (i) for a failure to decide or a deemed refusal of a conversion application—the relevant decision was required to be made; or

(ii) otherwise—the original decision is made.

33 Amendment of s 99BRBC (Notice of review decision)

Section 99BRBC(3)(a), from ‘building’ to ‘Act’—

omit, insert—

building and development committee

34 Amendment of s 99BRBD (Internal review stops particular actions)

Section 99BRBD(1), from ‘for’ to ‘charge decision’—

omit.

35 Amendment of ch 4C, pt 4, div 3, hdg and s 99BRBE

Chapter 4C, part 4, division 3, heading and section 99BRBE(2), ‘dispute resolution’—

omit.

36 Amendment of s 99BRBF (Appeals about applications for connections—particular charges)

(1) Section 99BRBF(1)(a), after ‘decision’—

insert—

or a decision to give an infrastructure charges notice

(2) Section 99BRBF(2) to (4)—

omit, insert—

(2) The applicant may appeal to a building and development committee about the review decision.

(3) The appeal may be made only on 1 or more of the following grounds—

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- (a) the decision involved an error relating to the application of the relevant charge;
- (b) if the decision is the giving of an infrastructure charges notice—
 - (i) the decision involved an error relating to—
 - (A) the working out, for section 99BRCJ, of additional demand; or
 - (B) an offset or refund; or
 - (ii) there was no decision about an offset or refund; or
 - (iii) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.
- (4) To remove any doubt, it is declared that the appeal must not be about—
 - (a) the relevant charge itself; or
 - (b) for a decision about an offset or refund for an infrastructure charges notice—
 - (i) the establishment cost of infrastructure identified in the distributor-retailer’s water netserv plan; or
 - (ii) the cost of infrastructure decided using the method included in the distributor-retailer’s infrastructure charges schedule.
- (5) The appeal must be started within the standard appeal period.

37 Insertion of new s 99BRBFA

After section 99BRBF—

insert—

99BRBFA Appeals against refusal of conversion application

- (1) This section applies to an applicant for a conversion application if—
 - (a) the applicant applied for internal review of the conversion decision; and
 - (b) the review decision is not the decision sought by the applicant.
- (2) The applicant may appeal to a building and development committee against the review decision.
- (3) The appeal must be started within the standard appeal period.

38 Amendment of s 99BRBG (Application of relevant committee appeal provisions)

- (1) Section 99BRBG(1)—

insert—

- (e) an infrastructure charges notice under the Planning Act were an infrastructure charges notice under this Act; and
- (f) the period required under the Planning Act for lodging a document to start proceedings were a reference to the period required under this Act for lodging a document to start proceedings.

- (2) Section 99BRBG(2), definition *relevant committee appeal provisions*, paragraph (a), from ‘564(2)(e)’ to ‘569’—

omit, insert—

564(2)(d) and (e), 567, 569 and 569A

[s 39]

39 Amendment of s 99BRBK (Registrar must ask distributor-retailer for material in particular proceedings)

Section 99BRBK(1) and (2)—

omit, insert—

- (1) This section applies to an appeal under—
 - (a) section 99BRBE if the applicant applied for internal review of a failure to decide; or
 - (b) section 99BRBFA if the applicant applied for internal review of a deemed refusal of a conversion application.
- (2) The registrar of building and development committees must ask the distributor-retailer to give the registrar—
 - (a) all material, including plans and specifications, relevant to the application; and
 - (b) a statement of the reasons the distributor-retailer had not decided the application during the period for deciding the application; and
 - (c) any other information the registrar requires.

40 Amendment of s 99BRBL (Lodging appeal stops particular actions)

(1) Section 99BRBL(1), from ‘for’ to ‘charge decision’—

omit.

(2) Section 99BRBL(2), ‘dispute resolution’—

omit.

41 Amendment of s 99BRBO (Appeals about applications for connections—particular charges)

(1) Section 99BRBO(1)(a), after ‘decision’—

insert—

or a decision to give an infrastructure charges notice

(2) Section 99BRBO(3) to (5)—

omit, insert—

- (3) An appeal under this section may be made only on 1 or more of the following grounds—
- (a) the charge imposed by the distributor-retailer is so unreasonable that no reasonable distributor-retailer could have imposed it;
 - (b) the decision involved an error relating to the application of the relevant charge;
 - (c) if the decision is the giving of an infrastructure charges notice—
 - (i) the decision involved an error relating to—
 - (A) the working out, for section 99BRCJ, of additional demand; or
 - (B) an offset or refund; or
 - (ii) there was no decision about an offset or refund; or
 - (iii) if the infrastructure charges notice states a refund will be given—the timing for giving the refund.
- (4) To remove any doubt, it is declared that the appeal must not be about—
- (a) the relevant charge itself; or
 - (b) for a decision about an offset or refund for an infrastructure charges notice—
 - (i) the establishment cost of infrastructure identified in the distributor-retailer's water netserv plan; or

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- (ii) the cost of infrastructure decided using the method included in the distributor-retailer's infrastructure charges schedule.
- (5) The appeal must be started within the standard appeal period.

42 Insertion of new s 99BRBOA

After section 99BRBO—

insert—

99BRBOA Appeals against refusal of conversion application

- (1) This section applies to an applicant for a conversion application if—
 - (a) the applicant applied for internal review of the conversion decision; and
 - (b) the review decision is not the decision sought by the applicant.
- (2) The applicant may appeal to the Planning and Environment Court against the review decision.
- (3) The appeal must be started within the standard appeal period.

43 Amendment of s 99BRBV (Lodging appeal stops particular actions)

Section 99BRBV(1), from 'an appeal' to 'charge decision'—

omit, insert—

an appeal, other than an appeal under section 99BRBP,
is started under this division

44 Renumbering of ss 99BRDD and 99BRDE

Sections 99BRDD and 99BRDE—

renumber as sections 99BRDQ and 99BRDR.

45 Insertion of new ch 4C, pt 7

After section 99BRCB—

insert—

Part 7 Water infrastructure

Division 1 Preliminary

99BRCC Definitions for pt 7

In this part—

additional payment condition see section 99BRCU(1).

agreement means an agreement in writing.

automatic increase provision see section 99BRCG(3)(b).

board decision see section 99BRCF(1).

breakup agreement means an agreement entered into by a distributor-retailer and its participating local government under the Planning Act, section 632(2).

establishment cost, for a provision about trunk infrastructure, means the following—

- (a) for existing infrastructure—
 - (i) the current replacement cost of the infrastructure as reflected in the relevant distributor-retailer’s asset register; and
 - (ii) the current value of the land acquired for the infrastructure;

[s 45]

- (b) for future infrastructure—all costs of land acquisition, financing, and design and construction, for the infrastructure.

infrastructure charges schedule see section 99BRCD.

levied charge see section 99BRCI(6).

necessary infrastructure condition see section 99BRCP(2).

payer, for a provision about a levied charge or for a payment, means anyone who pays part or all of the charge or payment.

payment includes a contribution by way of a payment.

PPI index means the following—

- (a) generally—the producer price index for construction 6427.0 (ABS PPI) index number 3101—Road and Bridge construction index for Queensland published by the Australian Bureau of Statistics;
- (b) if an index described in paragraph (a) ceases to be published—another similar index prescribed by regulation.

premises means—

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

SPRP (adopted charges) see the Planning Act, section 629(5).

subject premises see section 99BRCP(1).

Division 2 Infrastructure charges schedule

99BRCD Operation of div 2

This division applies if the charges schedule (an *infrastructure charges schedule*) of a distributor-retailer includes an adopted charge.

99BRCE Schedule of charges to be adopted

- (1) The distributor-retailer's board must adopt its infrastructure charges schedule before the schedule is—
 - (a) included in the distributor-retailer's water netserv plan; and
 - (b) uploaded to the distributor-retailer's website.
- (2) The infrastructure charges schedule must include the matters dealt with in the board's decision under division 3, subdivisions 1 and 2.
- (3) A charge in the infrastructure charges schedule takes effect—
 - (a) if the infrastructure charges schedule is uploaded to the distributor-retailer's website before the beginning of the day stated in the board decision as the day the charge takes effect—on the day stated in the board decision; or
 - (b) otherwise—the day the infrastructure charges schedule is uploaded to the distributor-retailer's website.

[s 45]

Division 3 Charges for trunk infrastructure

Subdivision 1 Power to adopt charges

99BRCF Power to adopt charges by board decision

- (1) A distributor-retailer's board may decide (a *board decision*) to adopt charges (each an *adopted charge*) for providing trunk infrastructure in relation to its water service or wastewater service.

Note—

See also section 140F.

- (2) However—
- (a) a board decision does not, of itself, levy an infrastructure charge; and
 - (b) the making of a board decision is subject to subdivision 2; and
 - (c) an adopted charge must not be for—
 - (i) trunk infrastructure related to work or use of land authorised under the *Greenhouse Gas Storage Act 2009*, the *Mineral Resources Act 1989*, the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*; or
 - (ii) trunk infrastructure related to development in a priority development area under the *Economic Development Act 2012*.
- (3) A board decision must state the day when an adopted charge in the board decision is to take effect.

Note—

See section 99BRCE(3).

Subdivision 2 Board decision

99BRCG Matters for board decision

- (1) An adopted charge may be made only if it is—
 - (a) permitted under the SPRP (adopted charges); and
 - (b) no more than the proportion of the maximum adopted charge for trunk infrastructure the distributor-retailer may have under—
 - (i) a breakup agreement to which it is a party; or
 - (ii) if it is not a party to a breakup agreement—the SPRP (adopted charges).
- (2) There may be different adopted charges for providing trunk infrastructure in different parts of the distributor-retailer's geographic area.
- (3) Also, a board decision may do the following—
 - (a) declare there is no adopted charge for part or all of the distributor-retailer's geographic area;
 - (b) provide for automatic increases in levied charges from when they are levied to when they are paid (an *automatic increase provision*).
- (4) However, an automatic increase provision must state how increases under it are to be worked out.
- (5) Also, the automatic increase must not be more than the lesser of the following—

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- (a) the difference between the levied charge and the amount mentioned in subsection (1)(b) the distributor-retailer could have levied for the trunk infrastructure when the charge is paid;
 - (b) the increase for the PPI index for the period starting on the day the levied charge was levied and ending on the day it is paid, adjusted by reference to the 3-yearly PPI index average.
- (6) In this section—
- 3-yearly PPI index average*** means the PPI index smoothed in accordance with the 3-year moving average quarterly percentage change between quarters.
- maximum adopted charge***, for trunk infrastructure, means the maximum for an adopted charge for the infrastructure imposed under an SPRP (adopted charges), as mentioned in the Planning Act, section 629(1) as the amount of that maximum is changed, from time to time, under the Planning Act, section 629(2).

99BRCH Working out cost of infrastructure for offset or refund

- (1) For the purpose of working out an offset or refund under this part, a board decision must include a method for working out the cost of the infrastructure the subject of the offset or refund.
- (2) The method must be consistent with the parameters for the purpose provided for under—
 - (a) the SPRP (adopted charges); or
 - (b) if the parameters are not provided for under the SPRP (adopted charges)—a guideline

mentioned in the Planning Act, section 633(2)(b).

99BRCHA Criteria for deciding conversion application

- (1) A board decision must include criteria for deciding a conversion application.
- (2) The criteria must be consistent with parameters for the criteria provided for under a guideline mentioned in the Planning Act, section 633A(2).

Subdivision 3 Levying charges

99BRCI When charge may be levied and recovered

- (1) This section applies if—
 - (a) a distributor-retailer has given a water approval; and
 - (b) an adopted charge applies for providing the trunk infrastructure; and
 - (c) the connection the subject of the water approval is not being carried out by a public sector entity on designated land under the Planning Act.
- (2) The distributor-retailer must give the applicant for the water approval an infrastructure charges notice.
- (3) The distributor-retailer may give the infrastructure charges notice only within 10 business days after the distributor-retailer gives the applicant a decision notice under section 99BRAI or a notice under section 99BRAU(5).

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- (4) Subsection (3) is subject to any provision under which an infrastructure charges notice may be amended or replaced.

Note—

See sections 99BRAK(5)(c), 99BRDC(3) and 99BRDH(4).

- (5) The infrastructure charges notice lapses if the water approval stops having effect.
- (6) If the infrastructure charges notice levies on the applicant an amount for a charge worked out by applying the adopted charge (a *levied charge*), the following apply for the levied charge—
- (a) its amount is subject to sections 99BRCJ and 99BRCT;
 - (b) it is payable by the applicant;
 - (c) it attaches to the land;
 - (d) it only becomes payable as provided for under subdivision 4;
 - (e) it is subject to any agreement under section 99BRCM(1);
 - (f) the distributor-retailer may recover from the applicant the amount, or part of the amount, of the charge as a debt.
- (7) In this section—
public sector entity see the Planning Act, schedule 3.

99BRCJ Limitation of levied charge

- (1) A levied charge may be only for additional demand placed upon trunk infrastructure that will be generated by the connection the subject of the water approval.
- (2) In working out additional demand—

-
- (a) any existing demand for a water service or wastewater service must not be included if it is the subject of an existing water approval for the premises; and
 - (b) the demand on trunk infrastructure generated by the following must not be included—
 - (i) an existing use on the premises if the use is lawful and already taking place on the premises;
 - (ii) a previous use that is no longer taking place on the premises if the use was lawful at the time it was carried out;
 - (iii) other development on the premises if the development may be lawfully carried out without the need for a further development permit under the Planning Act.
- (3) However, the demand generated by a water approval, use or development mentioned in subsection (2) may be included if an infrastructure requirement that applies or applied to the water approval, use or development has not been complied with.
- (4) In this section—
- charges notice*** means—
- (a) an infrastructure charges notice under this Act or the Planning Act; or
 - (b) a notice mentioned in the Planning Act, section 977(1).
- infrastructure requirement*** means a charges notice, a water approval condition or a condition of a development approval under the Planning Act that requires infrastructure or a payment in relation to demand on trunk infrastructure.

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99BRCK Requirements for infrastructure charges notice

- (1) An infrastructure charges notice must state all of the following for the levied charge—
 - (a) its current amount;
 - (b) how it has been worked out;
 - (c) the land;
 - (d) when it will be payable under section 99BRCL (without considering any possible water infrastructure agreement);
 - (e) if an automatic increase provision applies—
 - (i) that it is subject to automatic increases; and
 - (ii) how the increases are worked out under the provision;
 - (f) whether an offset or refund under this part applies and, if so, details of the offset or refund, including when the refund will be given.
- (2) The infrastructure charges notice must also include, or be accompanied by, an information notice about the decision to give the notice.

Subdivision 4 Payment

99BRCL Payment triggers generally

- (1) A levied charge for trunk infrastructure becomes payable—
 - (a) if the charge applies for a water approval and there is a related reconfiguring of a lot that is assessable development or development requiring compliance

-
- assessment—when the network connection is made; or
- (b) otherwise—when the property service connection is made.
- (2) This section is subject to any relevant water infrastructure agreement.
- (3) In this section—
assessable development see the Planning Act, schedule 3.

99BRCM Agreements about payment or provision instead of payment

- (1) The recipient of an infrastructure charges notice and the distributor-retailer that gave it may agree about either or both of the following—
- (a) whether the levied charge may be paid other than as required under section 99BRCL, including whether it may be paid by instalments;
- (b) whether infrastructure may be provided instead of paying part or all of the levied charge.
- (2) If the levied charge is subject to an automatic increase provision, the agreement must state how increases in the charges are payable under the agreement.

Subdivision 5 Changing charges

99BRCN Application of Planning Act, ch 8, pt 2, div 1, sdiv 5

The Planning Act, chapter 8, part 2, division 1, subdivision 5 applies to an infrastructure charges

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notice given by a distributor-retailer with any necessary changes, as if a reference in the subdivision to—

- (a) an infrastructure charges notice were a reference to an infrastructure charges notice under this Act; and
- (b) the local government that gave the infrastructure charges notice were the distributor-retailer that gave the infrastructure charges notice under this Act; and
- (c) the relevant appeal period were a reference to the period within which the recipient of the infrastructure charges notice may make an internal review application under part 4, division 2 of this Act about the decision to give an infrastructure charges notice.

Subdivision 6 Miscellaneous

99BRCO Distributor-retailer may supply different trunk infrastructure from that identified in a water netserv plan

A distributor-retailer may supply different trunk infrastructure from the infrastructure identified in its water netserv plan if the infrastructure supplied delivers the same desired standard of service identified in the plan.

Division 4 Water approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

99BRCP Application and operation of sdiv 1

- (1) This subdivision applies if trunk infrastructure necessary to service the premises the subject of a water approval (the *subject premises*)—
 - (a) has not been provided; or
 - (b) has been provided but is inadequate.
- (2) Sections 99BRCQ and 99BRCR provide for a distributor-retailer to be able to impose particular water approval conditions (each condition is a *necessary infrastructure condition*) on any water approval given.

99BRCQ Necessary infrastructure condition for infrastructure identified in water netserv plan

- (1) This section applies if the distributor-retailer's water netserv plan identifies adequate trunk infrastructure to service the subject premises.
- (2) The distributor-retailer may impose a water approval condition requiring either or both of the following to be provided at a stated time—
 - (a) the identified infrastructure;
 - (b) different trunk infrastructure delivering the same desired standard of service.

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99BRCR Necessary infrastructure condition for other infrastructure

- (1) This section applies if the distributor-retailer's water netserv plan does not identify adequate trunk infrastructure to service the subject premises.
- (2) The distributor-retailer may impose a water approval condition that requires development infrastructure necessary to service the premises to be provided at a stated time.

Note—

See schedule, definition *trunk infrastructure*.

- (3) However, the distributor-retailer may impose a condition under subsection (2) only if the infrastructure is development infrastructure that services a connection—
 - (a) consistent with the assumptions about the type, scale, location, timing or intensity of future development stated in the water netserv plan; and
 - (b) for premises completely inside the connection area and future connection area.

99BRCS Deemed compliance with reasonable or relevant requirement

- (1) A necessary infrastructure condition is taken to comply with section 99BRAJ(1) if—
 - (a) generally, the infrastructure required is—
 - (i) necessary to service the subject premises; and
 - (ii) the most efficient and cost-effective solution for servicing other premises in the general area of the subject premises; and

-
- (b) for a necessary infrastructure condition that requires the provision of the infrastructure on the subject premises, its provision—
 - (i) is not an unreasonable imposition on the connection; and
 - (ii) is reasonably required for the connection.
 - (2) To remove any doubt, it is declared that a necessary infrastructure condition may be imposed for infrastructure even if it will service premises other than the subject premises.

99BRCT Offset or refund requirements

- (1) This section applies if—
 - (a) trunk infrastructure the subject of a necessary infrastructure condition services, or is planned to service, premises other than the subject premises; and
 - (b) an adopted charge applies for the trunk infrastructure.
- (2) If the cost of the infrastructure required to be provided under the condition is equal to or less than the amount worked out by applying the adopted charge to the connection, the cost must be offset against that amount.

Note—

For how the cost is worked out, see sections 99BRCH and 99BRDC.

- (3) If the cost of the infrastructure required to be provided under the condition is more than the amount worked out by applying the adopted charge to the connection—
 - (a) there is no amount payable by the applicant for the relevant water approval; and

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- (b) the distributor-retailer must refund the applicant the proportion of the establishment cost of the trunk infrastructure that may be apportioned reasonably to users of premises other than the subject premises.

Subdivision 2 Conditions for additional trunk infrastructure costs

99BRCU Power to impose

- (1) A distributor-retailer may impose a condition (an *additional payment condition*) on a water approval requiring the payment of additional trunk infrastructure costs if—
 - (a) the connection—
 - (i) will generate infrastructure demand of more than that required to service the type, scale or intensity of future development assumed in the water netserv plan; or
 - (ii) will require new trunk infrastructure earlier than when identified in the distributor-retailer’s water netserv plan; or
 - (iii) is for premises completely or partly outside the connection area and future connection area; and
 - (b) the connection would impose additional trunk infrastructure costs on the distributor-retailer after taking into account either or both of the following—
 - (i) levied charges for the trunk infrastructure;

-
- (ii) trunk infrastructure provided, or to be provided, by the applicant under this part.
 - (2) An additional payment condition is taken to comply with section 99BRAJ(1) to the extent the infrastructure is necessary, but not yet available, to service the connection.
 - (3) Subsection (2) applies even if the infrastructure is also intended to service other premises.
 - (4) The power to impose an additional payment condition is subject to the rest of this subdivision.

99BRCV Content of additional payment condition

- (1) An additional payment condition must state all of the following—
 - (a) why it was imposed;
 - (b) the amount of the payment to be made under the condition;
 - (c) details of the trunk infrastructure for which the payment is required;
 - (d) when the amount becomes payable (the *payment time*);
 - (e) that the applicant may, instead of making the payment, elect to provide part or all of the trunk infrastructure;
 - (f) if the applicant so elects—
 - (i) any requirements for providing the trunk infrastructure; and
 - (ii) when it must be provided.
- (2) Unless the applicant and the distributor-retailer otherwise agree, the payment time is—
 - (a) if the trunk infrastructure is necessary to service the premises—by the day the

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- connection, or work associated with the connection, starts; or
- (b) if the trunk infrastructure is not necessary to service the premises—
 - (i) for a connection associated with reconfiguring a lot—when the network connection is made; or
 - (ii) for other connections—when the property service connection is made.

99BRCW Restriction if connection completely in connection area and future connection area

- (1) This section applies for an additional payment condition imposed by a distributor-retailer for a connection completely inside the connection area and future connection area.
- (2) The additional payment condition may require a payment only as follows—
 - (a) for trunk infrastructure to be provided earlier than planned in the water netserv plan, the difference between—
 - (i) the establishment cost of the infrastructure made necessary by the connection; and
 - (ii) the amount of any charge paid for the trunk infrastructure;
 - (b) for infrastructure associated with a different type, scale or intensity of future development from that assumed in the water netserv plan—the establishment cost of any additional trunk infrastructure made necessary by the connection.

99BRCX Other area restrictions

- (1) This section applies for an additional payment condition imposed by a distributor-retailer for a connection completely or partly outside the connection area and future connection area.
- (2) The additional payment condition may only require the payment of—
 - (a) the establishment cost of trunk infrastructure that is—
 - (i) made necessary by the connection; and
 - (ii) needed to service the rest of the connection area and future connection area; and
 - (b) either or both of the following establishment costs of any temporary infrastructure—
 - (i) costs required to ensure the safe or efficient operation of infrastructure needed to service the connection;
 - (ii) costs made necessary by the connection; and
 - (c) any decommissioning, removal and rehabilitation costs of the temporary infrastructure; and
 - (d) the maintenance and operating costs for up to 5 years of the infrastructure and temporary infrastructure as mentioned in paragraphs (a) and (b).

99BRCY Refund if connection in connection area and future connection area

- (1) This section applies for an additional payment condition imposed by a distributor-retailer for a connection completely inside the connection area and future connection area.

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- (2) The distributor-retailer must refund the payer the proportion of the establishment cost of the infrastructure that—
 - (a) may be apportioned reasonably to other users of the infrastructure; and
 - (b) has been, is or is to be, the subject of a levied charge by the distributor-retailer.

99BRCZ Refund if water approval ceases

- (1) This section applies if—
 - (a) a water approval subject to an additional payment condition no longer has effect; and
 - (b) a payment has been made under the condition; and
 - (c) construction of the infrastructure the subject of the condition has not substantially started before the water approval no longer has effect.
- (2) The distributor-retailer must refund the payer any part of the payment the distributor-retailer has not spent, or contracted to spend, on designing and constructing the infrastructure.
- (3) Timing of the refund is subject to terms agreed between the payer and distributor-retailer.

99BRDA Additional payment condition does not affect other powers

To remove any doubt, it is declared that the imposition of an additional payment condition does not prevent a distributor-retailer from doing the following—

- (a) adopting charges for trunk infrastructure or levying charges;

- (b) imposing a condition for non-trunk infrastructure;
- (c) imposing a necessary infrastructure condition.

Subdivision 3 Miscellaneous provisions

99BRDB No conditions on State infrastructure suppliers

- (1) A distributor-retailer can not impose a condition under this division on a supplier of State infrastructure.
- (2) In this section—
State infrastructure see the Planning Act, schedule 3.

99BRDC Working out cost for required offset or refund

- (1) This section applies if—
 - (a) a distributor-retailer has given an applicant for a water approval—
 - (i) a water approval under which the applicant is required to provide trunk infrastructure; and
 - (ii) an infrastructure charges notice that includes details of an offset or refund under this part relating to the establishment cost of the trunk infrastructure; and
 - (b) the applicant does not agree with the value of the establishment cost.
- (2) The applicant may, by notice to the distributor-retailer, require it to use the method

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under the relevant infrastructure charges schedule to recalculate the establishment cost.

- (2A) A notice under subsection (2) must be given to the distributor-retailer before the levied charge under the infrastructure charges notice becomes payable under section 99BRCL.
- (3) By notice to the applicant, the distributor-retailer must amend the existing infrastructure charges notice.
- (4) The amended infrastructure charges notice must adopt the method to work out the establishment cost.

Division 5 Miscellaneous provisions about trunk infrastructure

Subdivision 1 Conversion of particular non-trunk infrastructure before construction starts

99BRDD Application of sdiv 1

This subdivision applies if—

- (a) a particular water approval condition under section 99BRDJ requires non-trunk infrastructure to be provided; and
- (b) the construction of the non-trunk infrastructure has not started.

99BRDE Application to convert infrastructure to trunk infrastructure

- (1) The applicant for the water approval may apply (a *conversion application*) to convert the non-trunk infrastructure to trunk infrastructure.

-
- (2) The application must be made to the distributor-retailer in writing.

99BRDF Deciding conversion application

- (1) The distributor-retailer must consider and decide the conversion application within the required period.
- (2) In deciding the conversion application, the distributor-retailer must have regard to the criteria for deciding the application in its infrastructure charges schedule.
- (3) However, at any time before making the decision, the distributor-retailer may give a notice (an *information requirement*) to the applicant requiring the applicant to give information the distributor-retailer reasonably needs to make the decision.
- (4) The notice must state—
 - (a) what information it requires; and
 - (b) a period of at least 10 business days for giving the information; and
 - (c) the effect of subsection (5).
- (5) The application lapses if the applicant does not comply with the notice within the later of the following—
 - (a) the period stated in the notice for giving the information;
 - (b) any later period, as agreed within the period stated in the notice, between the distributor-retailer and the applicant.
- (6) In this section—

required period means 30 business days after—

 - (a) generally—the making of the application; or

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- (b) if an information requirement is made—the requirement is complied with.

99BRDG Notice of decision

- (1) As soon as practicable after deciding the conversion application, the distributor-retailer must give the applicant notice of the decision.
- (2) If the decision is to convert the non-trunk infrastructure to trunk infrastructure, the notice must state whether an offset or refund under this part applies and, if it does, details of the offset or refund.
- (3) If the decision is not to convert the non-trunk infrastructure to trunk infrastructure, the notice must be an information notice about the decision.

99BRDH Effect of and action after conversion

- (1) This section applies if the decision on a conversion application is to convert the non-trunk infrastructure to trunk infrastructure.

Note—

See schedule, definition *trunk infrastructure*.

- (2) The relevant water approval condition requiring the non-trunk infrastructure to be provided no longer has effect.
- (3) Within 20 business days after making the decision, the distributor-retailer may amend the water approval by imposing a necessary infrastructure condition for the trunk infrastructure.
- (4) If a necessary infrastructure condition is imposed, the distributor-retailer must also do either of the following within 10 business days

after the imposition for the purposes of section 99BRCT(2) or (3)(b)—

- (a) give an infrastructure charges notice;
 - (b) amend, by notice to the applicant, any existing infrastructure charges notice for the water approval.
- (5) For taking action under subsections (3) and (4), divisions 3 and 4 and part 4 apply as if—
- (a) a water approval were a reference to the conversion; and
 - (b) a levied charge were a reference to the amendment of the levied charge.

Subdivision 2 Other provisions

99BRDI Application of levied charge

- (1) A levied charge paid to a distributor-retailer must be used to provide trunk infrastructure.
- (2) To remove any doubt, it is declared that the amount paid need not be held in trust by the distributor-retailer.

Division 6 Non-trunk infrastructure

99BRDJ Conditions distributor-retailers may impose

- (1) This section applies for the imposition by a distributor-retailer of a water approval condition about non-trunk infrastructure.
- (2) The condition may be only about providing development infrastructure for 1 or more of the following—

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- (a) a network, or part of a network, internal to the premises;
 - (b) connecting the premises to external infrastructure networks;
 - (c) protecting or maintaining the safety or efficiency of the water infrastructure network of which the non-trunk infrastructure is a component.
- (3) The condition must state the infrastructure to be provided and when it must be provided.

Division 7 Water infrastructure agreements

99BRDK Water infrastructure agreement

A *water infrastructure agreement* is an agreement, as amended from time to time, mentioned in any of the following—

- section 99BRCM(1)
- section 99BRCV(2)
- section 99BRCZ(3)
- section 99BRDP(1).

99BRDL Obligation to negotiate in good faith

- (1) This section applies if—
- (a) a distributor-retailer proposes to another entity that they enter into a water infrastructure agreement; or
 - (b) another entity proposes to a distributor-retailer that they enter into a water infrastructure agreement.

- (2) The distributor-retailer or other entity to whom the proposal is made must, in writing, tell the proponent if it agrees to entering into negotiations for an infrastructure agreement.
- (3) In negotiating an infrastructure agreement, the distributor-retailer and the other entity must act in good faith.

Examples of actions that subsection (3) requires—

- disclosing to the other party to the negotiation in a timely way information relevant to entering into the proposed agreement
- considering and responding in a timely way to the other party's proposals about the proposed agreement
- giving reasons for each response

99BRDM Content of water infrastructure agreement

A water infrastructure agreement must—

- (a) if obligations under it would be affected by a change in the ownership of land the subject of the agreement—include a statement about how the obligations must be fulfilled in that event; and
- (b) include any other matters required by regulation to be included.

99BRDMA Copy of water infrastructure agreement to be given to local government

- (1) This section applies if a participating local government is not a party to a water infrastructure agreement that relates to its local government area.
- (2) The distributor-retailer must give the local government a copy of the agreement.

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99BRDN When water infrastructure agreement binds successors in title

- (1) This section applies if the owner of land to which a water infrastructure agreement applies is a party to the agreement or consents to the water connection obligations being attached to the land.
- (2) The water connection obligations under the water infrastructure agreement attach to the land and bind the owner and the owner's successors in title of the land.
- (3) If the owner's consent under subsection (1) is given but not endorsed on the water infrastructure agreement, the owner must give a copy of the document evidencing the owner's consent to the distributor-retailer for the land to which the consent applies.
- (4) Despite subsection (2), subsections (5) and (6) apply if—
 - (a) the water infrastructure agreement states that if the land is subdivided, part of the land is to be released from the water connection obligations; and
 - (b) the land is subdivided.
- (5) The part is released from the water connection obligations.
- (6) The water connection obligations are no longer binding on the owner of the part.
- (7) In this section—

public sector entity see the Planning Act, schedule 3.

water connection obligation means an obligation under the water infrastructure agreement other than an obligation to be fulfilled by a public sector entity.

99BRDO Water infrastructure agreement prevails over water approval and infrastructure charges notice

If a water infrastructure agreement is inconsistent with a water approval or infrastructure charges notice, the agreement prevails to the extent of the inconsistency.

99BRDP Agreement for infrastructure partnerships

- (1) A person may enter into an agreement with a distributor-retailer about—
 - (a) providing or funding infrastructure; or
 - (b) refunding payments made towards the cost of providing or funding infrastructure.
- (2) Subsection (1) has effect despite section 99BRAJ and divisions 2 to 6.

46 Amendment of s 99BT (Keeping particular documents available for inspection and purchase)

- (1) Section 99BT(1)—

insert—

 - (ab) all supporting material used to draft its water netserv plan;
- (2) Section 99BT(1)(d)(iii), after ‘agreement’—

insert—

and water infrastructure agreement
- (3) Section 99BT(1)(d)—

insert—

 - (vi) each document mentioned in the water netserv plan used to prepare the plan.

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47 Amendment of s 140 (Schedule of works for distributor-retailers before 1 October 2014)

Section 140(4)—

omit, insert—

- (4) A reference to a water netserv plan in any of the following provisions is taken to be a reference to the schedule of works adopted by the distributor-retailer's board under subsection (1)—
 - (a) section 99BRCO, 99BRCQ, 99BRCR, 99BRCU or 99BRCW;
 - (b) the schedule, definition *trunk infrastructure*.

47A Insertion of new ch 6, pt 9, divs 2 and 3

Chapter 6, part 9—

insert—

Division 2 Provisions about delegations

132 Delegations for concurrence agency functions

- (1) This section applies to—
 - (a) a development application mentioned in the Planning Act, section 959B(1) or 959C(1); and
 - (b) a development approval mentioned in the Planning Act, section 959E(1) or (2).
- (2) A delegation under former section 53(5)(a)(i), or a subdelegation of that function under former section 53(6), continues to apply to the development application or development approval, as if the amending Act had not been enacted.

- (3) Also, a delegation under former section 53(5)(d), or a subdelegation of that function under former section 53(6), continues to apply to a development approval mentioned in subsection (1)(b) as if the amending Act had not been enacted.
- (4) Former section 53(6) to (10) continues to apply to a delegation mentioned in subsection (2) or (3).

133 Delegations related to functions under the Planning Act, ch 9, pt 7A, div 4 continue

- (1) This section applies if a compliance assessment (an *existing assessment*) mentioned in the Planning Act, section 959F was, or is, required.
- (2) A delegation under former section 53(5)(a)(ii) or (5)(d), or a subdelegation under former section 53(6), continues to apply to the existing assessment as if the amending Act had not been enacted.
- (3) Former section 53(6) to (10) continues to apply to a delegation mentioned in subsection (2).

134 Delegation of functions under the Planning Act, ch 9, pt 7A, div 5

- (1) A distributor-retailer may delegate its functions under the Planning Act, former chapter 9, part 7A, division 5 to its relevant participating local governments.
- (2) Former section 53(6) and (10) is taken to apply to a delegation made under subsection (1).

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Division 3 Provisions about development approvals

135 Water connection aspect of development approvals under the Planning Act

- (1) This section applies to the following development approvals if the approval involves a water connection aspect—
 - (a) a development approval that takes effect under the Planning Act, section 959B or 959C if the approval is for a material change of use of premises or reconfiguring a lot under the Planning Act;
 - (b) a staged development approval to which the Planning Act, section 959D applies.
- (2) The water connection aspect of the development approval is taken to be a water approval for a staged connection.
- (3) All conditions of the development approval relating to the water connection aspect are taken to be conditions of the water approval.
- (4) In this section—

development approval means a development approval under the Planning Act.

staged development approval means a development approval for reconfiguring a lot.

water connection aspect, of a development approval, means the aspect of the approval that is related to the infrastructure of a distributor-retailer in relation to its water service or wastewater service.

48 Insertion of new ch 6, pt 10

After section 140—

insert—

Part 10 **Transitional provisions
for Sustainable
Planning
(Infrastructure
Charges) and Other
Legislation
Amendment Act 2014**

140B Definitions for pt 10

In this part—

commencement means, other than for section 141, the commencement of the *Water Supply Services Legislation Amendment Act 2014*, section 30.

concurrency agency see the Planning Act, section 251.

development approval means a development approval under the Planning Act.

unamended Planning Act means the Planning Act as in force immediately before the commencement.

140C Development application for development approval—distributor-retailers

- (1) This section applies to a development application to which the Planning Act, section 959B or 959C applies if the application is for a material change of use of premises or reconfiguring a lot under the Planning Act.
- (2) Despite the Planning Act, sections 959B(3) and 959C(3), for the aspect of the application for which a distributor-retailer or its participating local government is a concurrency agency—

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- (a) the following provisions of the unamended Planning Act do not apply for deciding the application—
 - (i) chapter 8;
 - (ii) section 347(1)(b);
 - (iii) chapter 9, part 7A, division 5; and
- (b) section 99BRAJ(2)(h), (3) and (4) and chapter 4C, part 7, divisions 4 and 6 apply for deciding the application—
 - (i) as if a reference to an application for a water approval were a reference to a development application; and
 - (ii) as if a reference to an applicant for a water approval were a reference to an applicant for a development approval; and
 - (iii) as if a reference to a water approval were a reference to a development approval; and
 - (iv) as if a reference to a water approval condition were a reference to a condition of a development approval; and
 - (v) as if a reference to a distributor-retailer were a reference to the concurrence agency for the development application; and
 - (vi) with any other necessary changes.
- (3) The distributor-retailer or its participating local government may, under chapter 4C, part 7, impose on any development approval given for the development application a condition about infrastructure for the distributor-retailer's water service or wastewater service as if the development approval were a water approval.

-
- (4) To remove any doubt, it is declared that if a condition is imposed on a development approval under subsection (3), the condition is a condition of the development approval.

Note—

The water connection aspect of a development approval given for a development application to which the Planning Act, section 959B or 959C applies becomes a water approval under section 135.

140D Existing notices

- (1) This section applies if—
- (a) a notice (an *original notice*) to which the Planning Act, section 959G applies is given for a development approval to which the Planning Act, section 959E applies; and
 - (b) a person makes a request under the Planning Act, section 369(1) to change the development approval.
- (2) Despite sections 959E(3) and 959G(2), an infrastructure charges notice may be given under the amended Act, chapter 4C, part 7, division 2, subdivision 3 to replace the original notice as if—
- (a) the original notice were an infrastructure charges notice under this Act; and
 - (b) a reference to a water approval were a reference to a development approval.
- (3) However, section 99BRDC does not apply to an infrastructure charges notice given under subsection (2).

- (4) In this section—

amended Act means this Act as in force after the commencement of the *Sustainable Planning*

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*(Infrastructure Charges) and Other Legislation
Amendment Act 2014, section 45.*

**140E Power to give infrastructure charges notice
for particular existing development approvals**

- (1) This section applies if a water connection aspect of a development approval is taken to be a water approval under section 135.
- (2) For section 99BRCI, a reference in that section to a decision notice is taken to be a reference to the decision notice for the development approval under the Planning Act.
- (3) A distributor-retailer can not levy a charge under section 99BRCI for the supply of trunk infrastructure for the water connection aspect if a charge was levied under the Planning Act for the supply of the trunk infrastructure before the water connection aspect was taken to be a water approval.
- (4) However, this section does not limit a distributor-retailer from levying a charge under section 99BRCI for the supply of additional or related trunk infrastructure if a subsequent water approval takes effect under this Act.

**140F Adopted infrastructure charges at
commencement continue in effect**

- (1) This section applies if—
 - (a) before the commencement—
 - (i) a State Planning Regulatory Provision under the Planning Act provided for a charge for the supply of trunk infrastructure; and
 - (ii) the distributor-retailer's board adopted a charge (an *existing charge*) for the

supply of the trunk infrastructure under the unamended Planning Act, section 755KA; and

- (b) the relevant distributor-retailer has not adopted an infrastructure charges schedule under section 99BRCE.
- (2) Despite section 99BRCF(1), the adopted charge for providing the trunk infrastructure is the existing charge for the infrastructure and is taken to have had effect on the day it had effect under the unamended Planning Act.
- (3) However, an existing charge is of no effect to the extent it is inconsistent with the SPRP (adopted charges).
- (4) Subsection (5) applies if a decision (an *existing board decision*) of the distributor-retailer's board under the unamended Planning Act, section 755KA does not include a method for working out the cost of infrastructure the subject of an offset or refund.
- (5) The decision is taken to include a method as set out in a guideline mentioned in the Planning Act, section 979(3).
- (6) If the existing board decision does not include criteria for deciding a conversion application, the existing board decision is taken to include criteria as set out in a guideline mentioned in the Planning Act, section 979(3A).

141 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature for which it is necessary to make provision to allow or facilitate the change from the operation of the unamended Act to the operation of the amended Act.

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- (2) A transitional regulation may have retrospective operation to a day that is not earlier than the commencement.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the commencement.
- (5) In this section—

amended Act means this Act as in force after the commencement.

commencement means the day this section commences.

unamended Act means this Act as in force immediately before the commencement.

49 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *non-trunk infrastructure*, *premises* and *priority infrastructure plan*—
omit.
- (2) Schedule—
insert—

additional payment condition, for chapter 4C, part 7, see section 99BRCC.

adopted charge, for chapter 4C, see section 99BRCF(1).

Note—

See also section 140F.

agreement, for chapter 4C, part 7, see section 99BRCC.

automatic increase provision, for chapter 4C, part 7, see section 99BRCG(3)(b).

board decision, for chapter 4C, part 7, see section 99BRCF(1).

building and development committee means a building and development dispute resolution committee established under the Planning Act.

charges breakup see the Planning Act, section 627.

charge decision, for chapter 4C, part 4, see section 99BRAX.

conversion application see section 99BRDE(1).

conversion decision, for chapter 4C, part 4, see section 99BRAX.

deemed refusal, for a conversion application, see section 99BRAX.

establishment cost, for chapter 4C, part 7, see section 99BRCC.

infrastructure charges notice means—

- (a) if paragraphs (b) and (c) do not apply—an infrastructure charges notice given under section 99BRCI(2) or 99BRDH(4)(a); or
- (b) if, under the Planning Act, section 643(1), as applied under section 99BRCN, a negotiated notice within the meaning of the Planning Act, section 643(1) replaces an existing infrastructure charges notice—the negotiated notice; or
- (c) if an existing infrastructure charges notice is amended or replaced under section 99BRAK(5)(c), 99BRDC(3) or 99BRDH(4)(b)—the notice as amended or replaced.

infrastructure charges schedule, for chapter 4C, part 7, see section 99BRCD.

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levied charge, for chapter 4C, part 7, see section 99BRCI(6).

LGIP means an LGIP under the Planning Act.

necessary infrastructure condition, for chapter 4C, part 7, see section 99BRCP(2).

non-trunk infrastructure, for a distributor-retailer, means water infrastructure of the distributor-retailer that is development infrastructure, other than trunk infrastructure.

payer, for a provision about a levied charge or for a payment, see section 99BRCC.

payment, for chapter 4C, part 7, see section 99BRCC.

PPI index, for chapter 4C, part 7, see section 99BRCC.

premises—

- (a) for chapter 4C, part 7—see section 99BRCC; or
- (b) otherwise, means—
 - (i) a lot as defined under the Planning Act, section 10(1); or
 - (ii) for a lot under the *Body Corporate and Community Management Act 1997* or the *Building Units and Group Titles Act 1980*—the common property for the lot.

reconfiguring a lot see the Planning Act, section 10(1).

required period, for a conversion application, see section 99BRDF(6).

SPRP (adopted charges), for chapter 4C, part 7, see section 99BRCC.

standard appeal period, for chapter 4C, part 4, see section 99BRAX.

subject premises, for chapter 4C, part 7, see section 99BRCP(1).

water infrastructure agreement see section 99BRDK.

- (3) Schedule, definition *development infrastructure*, ‘schedule 3’—

omit, insert—

section 627

- (4) Schedule, definition *distributor-retailer*—

insert—

(g) for a provision about an infrastructure charges notice—means the distributor-retailer that gave the notice.

- (5) Schedule, definition *information notice*, paragraph (b), before ‘the Water’—

insert—

this Act or

- (6) Schedule, definition *planning assumptions*, paragraphs (a)(i), (b)(i) and (c)(i), ‘priority infrastructure plans’—

omit, insert—

LGIPs

- (7) Schedule, definition *planning assumptions*, paragraphs (a)(ii), (b)(ii) and (c)(ii), ‘priority infrastructure plan’—

omit, insert—

LGIP

- (8) Schedule, definition *trunk infrastructure*, paragraphs (a) and (b)—

omit, insert—

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- (a) development infrastructure identified in the distributor-retailer's water netserv plan as trunk infrastructure; or
- (b) development infrastructure that, because of a conversion application, becomes trunk infrastructure; or
- (c) development infrastructure that is required to be provided under a condition imposed under section 99BRCR(2).

Division 2 State Development and Public Works Organisation Act 1971

50 Act amended

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

51 Amendment of s 24 (Definitions for pt 4)

Section 24, definitions *properly made submission* and *submission period*—
omit.

52 Insertion of new pt 4A

After section 54G—
insert—

Part 4A **Assessment and
approval of particular
coordinated projects
under bilateral
agreement**

Division 1 **Preliminary**

54H Application and purpose of pt 4A

- (1) This part applies if—
 - (a) a bilateral agreement made under the Commonwealth Environment Act—
 - (i) is in force between the State and the Commonwealth; and
 - (ii) declares that actions in a class of actions specified in the agreement do not require approval under the Commonwealth Environment Act, part 9 for specified provisions because the actions have been approved under a bilaterally accredited authorisation process; and
 - (b) this part has been accredited by the Commonwealth Minister under the Commonwealth Environment Act, section 46(2A), as the authorisation process for the purposes of the bilateral agreement.
- (2) The purpose of this part is to provide for a process, to be accredited as mentioned in subsection (1)(b), for coordinated projects that are within the scope of the bilateral agreement to be—

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- (a) assessed in relation to their likely impact on particular environmental matters that are otherwise regulated under the Commonwealth Environment Act; and
 - (b) approved, either with or without conditions to protect, repair or mitigate damage to the environmental matters, or refused.
- (3) For this part, a coordinated project is *within the scope of the bilateral agreement* if the project—
- (a) is an action within the class of actions specified in the agreement that the declaration mentioned in subsection (1)(a)(ii) applies to; and
 - (b) has had, will have or is likely to have an impact on an environmental matter protected by a specified provision.

54I Definitions for pt 4A

In this part—

accepted submissions, for a coordinated project or amendment application, means either or both of the following—

- (a) all of the properly made submissions received about the project or application;
- (b) any other submissions about the project or the application accepted by the Coordinator-General;

to the extent the submissions relate to an environmental matter protected by a specified provision or another provision of the Commonwealth Act, part 3.

action see the Commonwealth Environment Act, sections 523, 524 and 524A.

assessment report see section 54W(4).

bilateral agreement means the bilateral agreement mentioned in section 54H(1)(a) as in force from time to time.

bilaterally accredited authorisation process see the Commonwealth Environment Act, section 46(2A).

bilateral project declaration see section 54J(1).

coordinated project declaration means a declaration made by the Coordinator-General as mentioned under section 26(1)(a) or (b).

environmental approval means—

- (a) an approval issued under section 54Y that approves the undertaking of a coordinated project for each environmental matter protected by a specified provision stated in the approval; or
- (b) if that approval is amended as mentioned in section 54ZE—the amended approval issued under that section.

environmental law means a law of the Commonwealth or a State about the protection of the environment or the conservation and sustainable use of natural resources.

environmental matter protected means a matter protected by a provision of the Commonwealth Environment Act, part 3, as mentioned in section 34 of that Act.

environmental record, of a proponent or proposed new proponent of a coordinated project, means—

- (a) any proceedings under an environmental law to which the proponent has been a party; and

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- (b) if the proponent is a corporation—the proponent’s environmental policies and planning framework; and
- (c) if the proponent is a corporation that is the subsidiary of another corporation (the ***parent corporation***)—
 - (i) any proceedings under an environmental law to which the parent corporation has been a party; and
 - (ii) the parent corporation’s environmental policies and planning framework.

impact see the Commonwealth Environment Act, section 527E.

information requirement notice see section 54S(2).

protected matters report means a report about the likely impacts of a coordinated project on each environmental matter protected by a specified provision.

reinstatement request see section 54ZJA(2).

specified provision means a provision of the Commonwealth Environment Act specified in the bilateral agreement as a provision for which the agreement declares an action does not require approval under the Commonwealth Environment Act, part 9.

within the scope of the bilateral agreement, for a coordinated project, see section 54H(3).

Division 2 Coordinated projects to be assessed under this part

54J Declaration for coordinated project for this part

- (1) The Coordinator-General may declare (a *bilateral project declaration*) a coordinated project to be also a project to be assessed under this part for the purposes of the bilateral agreement.
- (2) The Coordinator-General may make a bilateral project declaration only if satisfied the coordinated project—
 - (a) is within the scope of the bilateral agreement; and
 - (b) is not likely to have a significant impact on an environmental matter protected by a provision of the Commonwealth Environment Act, part 3, that is not a specified provision.
- (3) However, the Coordinator-General must not make a declaration under subsection (1) about a coordinated project that is any of the following—
 - (a) an action that the Commonwealth Minister has decided, under the Commonwealth Environment Act, section 75, is not a controlled action;
 - (b) an action about which the Commonwealth Minister has made a decision, under the Commonwealth Environment Act, section 133, approving or refusing to approve the taking of the action;
 - (c) an action the Commonwealth Minister has decided the Commonwealth Environment Act, part 7, division 1A applies to because

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the action would have unacceptable impacts on an environmental matter protected.

- (4) A bilateral project declaration must be made by gazette notice.

54K Application for declaration

- (1) A person may apply to the Coordinator-General for a bilateral project declaration if the person is—
 - (a) the applicant for a coordinated project declaration for a project; or
 - (b) the proponent of a coordinated project.
- (2) The application must—
 - (a) be in writing; and
 - (b) briefly describe the impacts the project is likely to have on any environmental matter protected by a specified provision or another provision of the Commonwealth Environment Act, part 3; and
 - (c) include enough information about the project to allow the Coordinator-General to consider whether the project is a project mentioned in section 54J(2) or (3).
- (3) The application may be made at the same time an application for a coordinated project declaration for the project is made.

54L Deciding application

- (1) The Coordinator-General must consider and decide each application received under section 54K.
- (2) Section 54J(2) and (3) applies for making the decision.

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- (3) Also, in making the decision, the Coordinator-General must consider the bilateral agreement.
 - (4) If the Coordinator-General decides to refuse the application, the Coordinator-General must give the applicant written notice of the decision and the reasons for it.

54M Cancellation of declaration

- (1) The Coordinator-General may cancel a bilateral project declaration for a coordinated project before making a decision under section 54T if—
 - (a) the proponent of the project makes a written request to the Coordinator-General to cancel the declaration; or
 - (b) the coordinated project declaration for the project is cancelled under section 27AF; or
 - (c) the Coordinator-General is no longer satisfied about either or both of the matters mentioned in section 54J(2); or
 - (d) the Coordinator-General considers the project is a project mentioned in section 54J(3)(a) to (c).
- (2) If the Coordinator-General decides under subsection (1)(b) to (d) to cancel the declaration, the Coordinator-General must, within 14 days after the decision, give the proponent written notice of the decision and the reasons for it.
- (3) A decision to cancel the declaration takes effect on the later of—
 - (a) the day the written notice is given to the proponent; or
 - (b) the day of effect stated in the written notice.

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54N Lapsing of declaration

The bilateral project declaration for a coordinated project lapses if the coordinated project declaration for the project lapses.

Note—

See section 27A.

Division 3 Assessment and approval process

54O Application of div 3

This division applies to a coordinated project if a bilateral project declaration has been made for the project.

54P Preparation of draft protected matters report

- (1) The proponent for the coordinated project must prepare a draft protected matters report and give it to the Coordinator-General.
- (2) The Coordinator-General may, by written notice, require the proponent to include information about a stated matter in the draft protected matters report.
- (3) The draft protected matters report must include the information required by—
 - (a) a regulation; and
 - (b) if the Coordinator-General gave the proponent a notice under subsection (2)—the notice.
- (4) The Coordinator-General may ask any person for information, advice or comment about the draft protected matters report.

54Q Public notification of draft protected matters report

- (1) This section applies after the proponent has prepared a draft protected matters report for the coordinated project to the satisfaction of the Coordinator-General.
- (2) The proponent must publicly notify the draft protected matters report.
- (3) However, the proponent must publicly notify the draft protected matters report under subsection (2) when complying with section 33 in relation to the coordinated project only if—
 - (a) the proponent is required to comply with section 33 in relation to the project; and
 - (b) the bilateral project declaration for the project was made before the proponent complied with section 33.
- (4) For publicly notifying the draft protected matters report as required by subsection (2)—
 - (a) section 33 applies as if a reference in that section to an EIS were to the report; and
 - (b) the proponent must comply with the requirements prescribed by regulation for the notification in a regulation; and
 - (c) submissions about the report may be made under section 34 as if the report were an EIS; and
 - (d) the submission period for the coordinated project set under section 33(1)(d) must be at least the minimum period prescribed by regulation.

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54R Proponent must finalise protected matters report after public notification

- (1) After the end of the submission period for the coordinated project, the proponent must prepare a final protected matters report and give it to the Coordinator-General.
- (2) The final protected matters report must—
 - (a) summarise the accepted submissions; and
 - (b) state how the submissions have been addressed.

54S Coordinator-General may seek further information or comments

- (1) This section applies if, after receiving the final protected matters report under section 54R, the Coordinator-General considers further information is reasonably necessary for the Coordinator-General to consider the matters mentioned in section 54W.
- (2) The Coordinator-General may, by written notice (a *information requirement notice*), require the proponent to give the Coordinator-General the stated further information within the stated period.
- (3) The proponent must comply with the information requirement notice.
- (4) The Coordinator-General may—
 - (a) extend the stated period for an information requirement notice; or
 - (b) give the proponent more than 1 information requirement notice.
- (5) If the proponent does not comply with an information requirement notice within the stated period, the Coordinator-General may—

- (a) make a decision under section 54T without the further information; or
 - (b) refuse to make a decision until the notice is complied with to the Coordinator-General's satisfaction.
- (6) The Coordinator-General may ask any person for information, advice or comment about the final protected matters report or the coordinated project.

54T Decision about approving undertaking of coordinated project

- (1) This section applies after—
- (a) the Coordinator-General has received the final protected matters report under section 54R; and
 - (b) the earlier of the following happens—
 - (i) the proponent complies with all information requirement notices relating to the final report;
 - (ii) each period stated in an information requirement notice relating to the final report has ended.
- (2) The Coordinator-General must decide—
- (a) to approve the undertaking of all or part of the coordinated project in relation to each of the specified provisions; or
 - (b) to refuse to approve the project.
- (3) However, the Coordinator-General must not approve the undertaking of the coordinated project to the extent the project will impact an environmental matter protected by a specified provision in a way that, in the

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Coordinator-General's opinion, is unacceptable or unsustainable.

- (4) To remove any doubt, it is declared that if the Coordinator-General approves the undertaking of only part of a project, the balance of the project is refused.

54U Conditions

- (1) This section applies if the Coordinator-General decides to approve the undertaking of the coordinated project in relation to a specified provision.
- (2) The Coordinator-General may decide to impose a condition in relation to the specified provision if satisfied the condition is necessary or convenient to—
 - (a) protect an environmental matter protected by the provision (whether or not the protection is from the impact of the coordinated project); or
 - (b) repair or mitigate damage to an environmental matter protected by the provision (whether or not the damage has been, will be or is likely to be caused by the coordinated project).
- (3) A condition may, for example, require 1 or more of the following—
 - (a) an environmental offset as mentioned in the bilateral agreement;
 - (b) a stated amount to be paid to a stated person for the purpose of activities related to protecting, or repairing or mitigating damage to, an environmental matter protected by the specified provision;

- (c) an environmental audit of the coordinated project to be carried out periodically by a person who is independent of the project;
 - (d) the preparation and implementation of a plan to manage the impacts of the coordinated project on the environmental matters protected by the specified provision;
 - (e) stated environmental monitoring or testing to be carried out;
 - (f) compliance with a stated industry standard or code of practice.
- (4) However, the Coordinator-General may only impose a condition on an environmental approval for a coordinated project that is not reasonably related to the project if the proponent consents to the condition being imposed.
- (5) The proponent may not withdraw consent to the imposition of a condition under subsection (4) after the condition has been imposed on the environmental approval.

54V Jurisdiction for conditions

- (1) If the Coordinator-General imposes 1 or more conditions on an environmental approval for a coordinated project, the Coordinator-General may nominate an entity that is to have jurisdiction for the condition.
- (2) An entity may be nominated for 1 or more of the conditions.

54W Criteria for decision

- (1) This section applies to the Coordinator-General in deciding whether to issue an environmental approval for the coordinated project or impose conditions on the approval.

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- (2) The Coordinator-General must—
 - (a) consider all of the following—
 - (i) the impacts the project has had, will have or is likely to have, on each environmental matter protected by a specified provision;
 - (ii) any criteria for the decision prescribed by regulation;
 - (iii) the protected matters report;
 - (iv) any further information provided under a notice under section 54S(2);
 - (v) any information, advice or comment given under section 54S(6);
 - (vi) all accepted submissions for the project; and
 - (b) ensure the approval and conditions are not inconsistent with the bilateral agreement.
- (3) Also, the Coordinator-General may consider—
 - (a) the proponent's environmental record; and
 - (b) any other matter the Coordinator-General considers relevant.
- (4) The Coordinator-General must prepare a report (an *assessment report*) that—
 - (a) demonstrates the Coordinator-General's consideration of the matters mentioned in subsections (2) and (3); and
 - (b) identifies the information and opinions, and the source of the information and opinions, on which the consideration is based.

54X Notice of decision

The Coordinator-General must give the proponent written notice of the Coordinator-General's decisions under sections 54T and 54U and a copy of the assessment report.

54Y Issuing environmental approval

- (1) If the Coordinator-General's decision under section 54T is to approve the undertaking of all or part of the coordinated project, the Coordinator-General must issue an environmental approval to the proponent.
- (2) The environmental approval must state each of the following—
 - (a) the proponent's name;
 - (b) the project, or part of the project, for which the approval is given;
 - (c) each specified provision for which the approval is given;
 - (d) the period for which the approval has effect;
 - (e) the conditions of the approval;
 - (f) for each condition—the nominated entity with jurisdiction for the condition.

Division 4 Amendment of environmental approval

54Z Application for amendment

- (1) A proponent may apply to the Coordinator-General to amend an environmental approval (an *amendment application*) to—

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- (a) change the coordinated project for which the approval is given; or
 - (b) change a condition of the approval; or
 - (c) extend the period for which the approval has effect; or
 - (d) change the proponent of the coordinated project.
- (2) The amendment application must—
- (a) be in writing; and
 - (b) describe the proposed amendment and the reasons for it; and
 - (c) briefly describe the impacts the proposed amendment is likely to have on any environmental matter protected by a specified provision or another provision of the Commonwealth Environment Act, part 3; and
 - (d) include enough information about the proposed amendment to allow the Coordinator-General to consider the matters mentioned in section 54ZC(3); and
 - (e) if the application is to change the proponent of the coordinated project—
 - (i) be accompanied by the written consent of the proposed new proponent; and
 - (ii) include information about the environmental record of the proposed new proponent.

54ZA Coordinator-General may seek further information or comments

- (1) After receiving an amendment application, the Coordinator-General may—

- (a) by notice ask the proponent for further information about the proposed amendment, its effects on the coordinated project or another related matter; and
 - (b) ask any person for information, advice or comment about the application.
- (2) If the proponent does not comply with a notice under subsection (1)(a) within a reasonable period, the Coordinator-General may—
- (a) decide the amendment application without the further information; or
 - (b) refuse to decide the application until the notice is complied with to the Coordinator-General's satisfaction.

54ZB Public notification of amendment application

- (1) The proponent must publicly notify the amendment application.
- (2) For publicly notifying the amendment application as required by subsection (1)—
 - (a) section 33 applies as if a reference in that section to an EIS were to the application; and
 - (b) the public notification must comply with the requirements prescribed by regulation for the notification; and
 - (c) submissions about the application may be made under section 34 as if the application were an EIS; and
 - (d) the submission period for the project set under section 33(1)(d) must be at least the minimum period prescribed by regulation.
- (3) This section does not apply to an amendment application to the extent the application is to—

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- (a) extend the period for which an environmental approval has effect; or
- (b) change the proponent of the coordinated project.

54ZC Deciding amendment application

- (1) The Coordinator-General must decide whether to approve or refuse each amendment application.
- (2) If an amendment application is required to be notified under section 54ZB(1), the Coordinator-General must not decide the application until the submission period has ended.
- (3) In deciding an amendment application, the Coordinator-General must—
 - (a) consider all of the following—
 - (i) any impacts the proposed amendment is likely to have on each environmental matter protected by a specified provision;
 - (ii) any further information about the proposed amendment received under section 54ZA;
 - (iii) any criteria for the decision prescribed by regulation;
 - (iv) all accepted submissions for the application;
 - (v) the matters mentioned in section 54J(2); and
 - (b) ensure the amended environmental approval and conditions are not inconsistent with the bilateral agreement.
- (4) Also, the Coordinator-General may consider—

- (a) the proponent's environmental record or, for an amendment application for a change of proponent, the proposed new proponent's environmental record; and
 - (b) any other matter the Coordinator-General considers relevant.
- (5) If the Coordinator-General decides to approve an amendment application, the Coordinator-General may also decide to—
- (a) amend or remove a condition of the environmental approval; or
 - (b) impose a further condition.
- (6) Section 54U applies for a decision under subsection (5).

54ZD Notice of decision

The Coordinator-General must give the proponent written notice of the Coordinator-General's decision under section 54ZC and the reasons for it.

54ZE Issuing amended environmental approval

If the Coordinator-General's decision under section 54ZC is to approve the amendment application, the Coordinator-General must—

- (a) amend the environmental approval to give effect to the amendment; and
- (b) issue the amended approval to the proponent or, if applicable, the new proponent.

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Division 5 Cancellling or suspending environmental approval

54ZF Cancellation or suspension at proponent's request

- (1) This section applies if the proponent of a coordinated project makes a written request to the Coordinator-General to cancel or suspend the approval in relation to a specified provision.
- (2) The Coordinator-General may, by written notice to the proponent, cancel the environmental approval, or suspend it for the period stated in the notice, in relation to the specified provision.

54ZG Cancellation or suspension for grounds including contravention or unforeseen significant impact

- (1) The Coordinator-General may cancel an environmental approval, or suspend it for a period, in relation to a specified provision if the Coordinator-General reasonably believes a ground for cancellation or suspension mentioned in subsection (2), (3) or (4) exists.
- (2) An environmental approval may be cancelled or suspended in relation to a specified provision if—
 - (a) the approval or a condition of the approval has been contravened; and
 - (b) either—
 - (i) the contravention has caused a significant impact on the environmental matter protected by the specified provision; or
 - (ii) because of the contravention, cancelling or suspending the approval is reasonably necessary to protect the

environmental matter protected by the specified provision.

- (3) An environmental approval may be cancelled or suspended in relation to a specified provision if—
- (a) the coordinated project has had, will have or is likely to have a significant impact on the environmental matter protected by the specified provision; and
 - (b) the impact was not identified during the assessment of the project; and
 - (c) the approval would not have been issued, or would have been issued with particular conditions, if information about the impact were available to the Coordinator-General during the assessment of the project.
- (4) An environmental approval may be cancelled or suspended in relation to a specified provision if—
- (a) information provided to the Coordinator-General during the assessment of the project did not accurately identify the likely impacts of the coordinated project on the environmental matter protected by the specified provision; and
 - (b) the information was inaccurate because of the proponent's negligence or deliberate act or omission.
- (5) In this section—
- assessment**, of a coordinated project, means either or both of the following—
- (a) the Coordinator-General's assessment of the project under division 3 for the purpose of deciding whether to issue an environmental approval or impose a condition on the approval;

[s 52]

- (b) if the environmental approval for the project was amended under division 4—the Coordinator-General’s consideration of an amendment application for the project under division 4 for the purpose of deciding whether to amend the approval or a condition of the approval.

54ZH Notice of proposed cancellation or suspension

- (1) Before cancelling or suspending an environmental approval in relation to a specified provision under section 54ZG(1), the Coordinator-General must give the proponent for the coordinated project a notice stating—
 - (a) that the Coordinator-General proposes to—
 - (i) cancel the approval; or
 - (ii) suspend the approval for the stated period; and
 - (b) the ground for the proposed cancellation or suspension; and
 - (c) that the proponent may, within a stated time of at least 14 days, give the Coordinator-General a written response to the proposed cancellation or suspension.
- (2) The Coordinator-General must consider any response given by the proponent within the stated time.

54ZI Notice of cancellation or suspension decision

- (1) If the Coordinator-General decides under section 54ZG(1) to cancel or suspend an environmental approval in relation to a specified provision, the Coordinator-General must, within 14 days after

-
- the decision, give the proponent written notice of the decision and the reasons for it.
- (2) If the decision is to suspend the environmental approval in relation to a specified provision—
 - (a) the notice must state the period of the suspension (the *suspension period*); and
 - (b) during the suspension period, the specified provision applies to the coordinated project the subject of the environmental approval as if the approval had not been given.
 - (3) A decision to cancel or suspend the environmental approval takes effect on the later of the following—
 - (a) the day the written notice is given to the proponent;
 - (b) the day of effect stated in the written notice.

54ZJ Issuing amended environmental approval

- (1) This section applies if an environmental approval remains in force for 1 or more specified provisions after a decision of the Coordinator-General under section 54ZG(1) to cancel the approval in relation to a specified provision takes effect.
- (2) The Coordinator-General must—
 - (a) amend the environmental approval to give effect to the partial cancellation of the approval; and
 - (b) issue the amended environmental approval to the proponent.
- (3) However, if a reinstatement request in relation to the cancellation is approved under section 54ZJC—

[s 52]

- (a) subsection (2) does not apply; and
- (b) any amended environmental approval issued under subsection (2)(b) because of the cancellation, and before the reinstatement request is decided, ceases to have effect.

54ZJA Request to reinstate cancelled or suspended environmental approval

- (1) This section applies if a proponent for a coordinated project is given notice under section 54ZI(1) that an environmental approval for the project is cancelled or suspended in relation to a specified provision.
- (2) The proponent may, by written notice (a *reinstatement request*), ask the Coordinator-General to reinstate the environmental approval to the extent it is cancelled or suspended.
- (3) A reinstatement request must—
 - (a) be made no later than 2 months after the day the notice under section 54ZI(1) is given; and
 - (b) state the grounds on which the proponent seeks to have the environmental approval reinstated.

54ZJB Coordinator-General may request information about reinstatement request

- (1) This section applies if the Coordinator-General considers further information is reasonably necessary to decide a reinstatement request.
- (2) The Coordinator-General may, by written notice, require the proponent to provide the further information within the period stated in the notice.

- (3) If the further information is not provided within the stated period, the reinstatement request lapses.

54ZJC Deciding reinstatement request

- (1) The Coordinator-General must—
 - (a) decide whether to approve or refuse the reinstatement request; and
 - (b) give the proponent written notice of the decision, including the grounds for the decision.
- (2) In deciding the request, the Coordinator-General must consider the matters mentioned in section 54ZG(2), (3) and (4).
- (3) A decision under subsection (1)(a) must be made within 20 business days after the later of the following—
 - (a) the day the Coordinator-General receives the reinstatement request;
 - (b) the day the Coordinator-General receives any further information requested under section 54ZJB(2).
- (4) If a decision is not made within the period mentioned in subsection (3), the Coordinator-General is taken to have refused the reinstatement request the day after the period ends.
- (5) If the Coordinator-General approves the request, the cancellation or suspension ceases to have effect from the day notice of the decision is given under subsection (1)(b).

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Division 6 Offences and compliance

54ZK Failure to comply with environmental approval or conditions

- (1) This section applies to a person who is the holder of, or is acting under, an environmental approval.
- (2) The person must not, without reasonable excuse, contravene the environmental approval.

Maximum penalty—

- (a) for an individual—1665 penalty units; or
 - (b) for corporation—16650 penalty units.
- (3) The person must not, without reasonable excuse, contravene a condition of the environmental approval.

Maximum penalty—

- (a) for an individual—1665 penalty units; and
- (b) for corporation—16650 penalty units.

54ZL Compliance under Environmental Protection Act

- (1) The Environmental Protection Act, sections 437 to 440 and 493A apply to the undertaking of a coordinated project as if an environmental approval for the project were an environmental authority under that Act.
- (2) Also, the Environmental Protection Act, section 493 applies in relation to an offence against that Act, chapter 8, part 3 in relation to a coordinated project.
- (3) Subsection (4) applies if—
 - (a) a proceeding is proposed to be started in the Planning and Environment Court under the

-
- Environmental Protection Act, section 505;
and
- (b) the relief or remedy proposed to be sought in the proceeding relates to an offence, or threatened or anticipated offence, against a provision of the Environmental Protection Act because of section 493A of that Act as applied under subsection (1); and
 - (c) the offence or threatened or anticipated offence relates to the coordinated project.
- (4) Despite the Environmental Protection Act, section 505, only the following persons may bring the proceeding—
- (a) the Coordinator-General;
 - (b) an entity nominated under section 54V as having jurisdiction for a condition of the environmental approval for the coordinated project;
 - (c) the local government for the local government area in which the coordinated project is, or is to be, undertaken;
 - (d) the proponent;
 - (e) another person whose interests are significantly adversely affected by the subject matter of the proceeding.

54ZM Declarations

- (1) A person mentioned in section 54ZL(4) may start a proceeding in the Planning and Environmental Court for a declaration about the lawfulness, under this part, of undertaking a coordinated project.
- (2) The Sustainable Planning Act, section 456 applies to a proceeding started under this section.

Division 7 Miscellaneous

54ZN Fees for pt 4A

- (1) An application under this part must be accompanied by the fee prescribed by regulation for the application.
- (2) The Coordinator-General must refuse to receive the application unless the fee has been paid.
- (3) However, if a fee is prescribed for an application under section 54Z, the Coordinator-General may waive or reduce the fee.
- (4) In deciding to waive or reduce a fee under subsection (3), the Coordinator-General may have regard to the complexity of the proposed amendment and the extent of public consultation required in relation to the proposed change.
- (5) The proponent of a coordinated project must pay the Coordinator-General the fees prescribed by regulation at the times provided for under the regulation.
- (6) If a fee becomes payable under subsection (5), the Coordinator-General's obligations under this part for the coordinated project are suspended until the fee has been paid.
- (7) Subsection (6) applies despite any other provision of this part.

54ZO Recovering the cost of advice or services for assessment

- (1) This section applies if the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to decide an application, or take action, under this part in relation to a coordinated project.

- (2) The Coordinator-General may recover from the proponent as a debt the reasonable cost of obtaining the advice or services.

52A Amendment of s 157A (What is an *enforceable condition*)

Section 157A(1)—

insert—

- (e) a condition of an environmental approval under part 4A.

52B Amendment of s 157P (Executive officer must ensure corporation does not commit particular offences)

Section 157P(5)—

omit.

53 Amendment of s 173 (Regulation-making power)

Section 173(1)(g), ‘studies or the process under part 4, division 3,’—

omit, insert—

protected matters reports, studies or the process under part 4, division 3, or part 4A

54 Insertion of new pt 9, div 6

Part 9—

insert—

[s 55]

Division 6 **Transitional provision for
Sustainable Planning
(Infrastructure Charges)
and Other Legislation
Amendment Act 2014**

**195 Particular coordinated projects publicly
notified under pt 4**

- (1) This section applies to a coordinated project for which a bilateral project declaration is made under section 54J(1) if, before a bilateral agreement mentioned in section 54H(1)(a) was in force—
 - (a) an EIS was prepared for the project under part 4; and
 - (b) the EIS included the matters required by regulation for a project to which the *State Development and Public Works Organisation Regulation 2010*, part 13 applies; and
 - (c) the EIS was publicly notified under section 33.
- (2) The EIS, to the extent it includes the matters mentioned in subsection (1)(b), is taken to be a draft protected matters report for the coordinated project.
- (3) The proponent is taken to have complied with sections 54P and 54Q in relation to the coordinated project.

55 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *properly made submission* and *submission period*—
omit.

(2) Schedule 2—

insert—

accepted submissions, for a coordinated project or amendment application, for part 4A, see section 54I.

action, for part 4A, see the Commonwealth Environment Act, sections 523, 524 and 524A.

assessment report, for part 4A, see section 54W(4).

bilateral agreement, for part 4A, see section 54I.

bilaterally accredited authorisation process, for part 4A, see the Commonwealth Environment Act, section 46(2A).

bilateral project declaration, for part 4A, see section 54J(1).

Commonwealth Environment Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

Commonwealth Minister means the Minister of the Commonwealth responsible for administering the Commonwealth Environment Act.

coordinated project declaration for part 4A, see section 54I.

environmental approval, for part 4A, see section 54I.

environmental law, for part 4A, see section 54I.

environmental matter protected, for part 4A, see section 54I.

environmental record, of a proponent or proposed new proponent of a coordinated project, for part 4A, see section 54I.

executive officer, of a corporation, means a person who is concerned with, or takes part in, its

[s 55]

management, whether or not the person is a director or the person's position is given the name of executive officer.

impact, for part 4A, see the Commonwealth Environment Act, section 527E.

information requirement notice, for part 4A, see section 54S(2).

properly made submission, for an EIS, a proposed change to a project, a protected matters report or an amendment application, means a submission that—

- (a) is made to the Coordinator-General in writing; and
- (b) is received on or before the last day of the relevant submission period; and
- (c) is signed by each person who made the submission; and
- (d) states the name and address of each person who made the submission; and
- (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

protected matters report, for part 4A, see section 54I.

reinstatement request, for part 4A, see section 54ZJA(2).

specified provision, for part 4A, see section 54I.

submission period, for part 4 or part 4A, see section 33(1)(d).

within the scope of the bilateral agreement, for a coordinated project, for part 4A, see section 54H(3).

Part 3A **Amendment of local government legislation**

Division 1 **City of Brisbane Act 2010**

55A Act amended

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

55B Amendment of s 96 (Power to levy rates and charges)

Section 96—

insert—

- (1A) Without limiting subsection (1), the council may categorise rateable land, and decide differential rates for rateable land, according to whether or not the land is the principal place of residence of the owner.

55C Amendment of ch 8 hdg (Repeal, transitional and savings provisions)

Chapter 8, heading, ‘and savings’—

omit, insert—

, savings and validation

55D Insertion of new ch 8, pt 6

After section 268—

insert—

[s 55E]

Part 6 **Validation provision for
Sustainable Planning
(Infrastructure
Charges) and Other
Legislation
Amendment Act 2014**

269 Validation of rates charged

It is declared that the council always has had, whether under this Act or a repealed Act, the power to categorise rateable land, and decide differential rates for the rateable land, in the way stated in section 96(1A).

Division 2 **Local Government Act 2009**

55E Act amended

This division amends the *Local Government Act 2009*.

55F Amendment of s 94 (Power to levy rates and charges)

Section 94—

insert—

- (1A) Without limiting subsection (1), a local government may categorise rateable land, and decide differential rates for rateable land, according to whether or not the land is the principal place of residence of the owner.

55G Amendment of ch 9 hdg (Other transitional provisions)

Chapter 9, heading, after ‘transitional’—

insert—

and validation

55H Insertion of new ch 9, pt 8

After section 306—

insert—

Part 8 **Validation provision for
Sustainable Planning
(Infrastructure
Charges) and Other
Legislation
Amendment Act 2014**

307 Validation of rates charged

It is declared that a local government always has had, whether under this Act or a repealed Act, the power to categorise rateable land, and decide differential rates for the rateable land, in the way stated in section 94(1A).

Part 3B **Amendment of industrial
relations legislation**

Division 1 **Industrial Relations Act 1999**

55I Act amended

This division amends the *Industrial Relations Act 1999*.

55J Amendment of s 71OG (Right of entry)

Section 71OG(1), ‘or an associated entity of an organisation’—
omit.

[s 55K]

55K Amendment of s 353 (Entry to places)

Section 353(4), definition *workplace*, paragraph (b), from ‘, a branch’—

omit, insert—

or branch of an organisation.

55L Amendment of s 356 (Power to require information)

Section 356(1)(a)(iv)—

omit.

55M Omission of ch 12, pt 12, div 1B, hdg and sdiv 1, hdg

Chapter 12, part 12, division 1B, heading and subdivision 1, heading—

omit.

55N Omission of s 553C (Division does not apply to organisations with local government members)

Section 553C—

omit.

55O Relocation of s 553D (When does an organisation spend money for a *political purpose*)

Section 553D—

relocate and renumber as section 552A.

55P Omission of s 553DA (When an entity is an *associated entity of another entity*)

Section 553DA—

omit.

55Q Amendment of section 553E (Other definitions for div 1B)

- (1) Section 553E, heading—
omit.
- (2) Section 553E, ‘In this division—’—
omit.
- (3) Section 553E, definitions *candidate for election, legislature, local government, political matter, political object* and *political party*—
relocate to section 551.

55R Omission of ch 12, pt 12, div 1B, sdivs 2–4

Chapter 12, part 12, division 1B, subdivisions 2 to 4—
omit.

55S Amendment of s 557B (Register of political spending)

Section 557B(3)(d)—
omit.

55T Amendment of s 557S (Spending for political purposes)

Section 557S(d)—
omit.

55U Amendment of s 560 (Requirements for audit report)

Section 560(f)—
omit.

55V Insertion of new ch 20, pt 19

Chapter 20—
insert—

Part 19

Transitional provision for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014

838 Matters relating to expenditure ballots

- (1) This section applies if, during the relevant period, an entity—
 - (a) committed an offence against a provision in chapter 12, part 12, division 1B; or
 - (b) committed an offence against section 557B(1) because the entity failed to state, in a register the entity was required to keep under that subsection, a matter mentioned in section 557B(3)(d); or
 - (c) committed an offence against section 557O because the entity failed to include in a financial disclosure statement the entity was required to prepare under that section a matter mentioned in section 557S(d).
- (2) No proceeding may be started or continued against a person, and no penalty may be imposed, in relation to the offence.
- (3) Subsection (2) applies despite the *Acts Interpretation Act 1954*, section 20.
- (4) In this section—

relevant period means the period—

 - (a) starting on 1 July 2013; and

- (b) ending immediately before the commencement of this section.

55W Amendment of sch 5 (Dictionary)

- (1) Schedule 5, definitions *associated entity* and *expenditure ballot*—
omit.
- (2) Schedule 5, definitions *candidate for election*, *political matter* and *political party*, ‘division 1B and chapter 12, part 12A, see section 553E’—
omit, insert—
see section 551
- (3) Schedule 5, definitions *legislature* and *local government*, ‘, division 1B, see section 553E’—
omit, insert—
see section 551
- (4) Schedule 5, definition *political object*, ‘section 553E’—
omit, insert—
section 551
- (5) Schedule 5, definition *political purpose*, ‘section 553D’—
omit, insert—
section 552A

Division 2 Industrial Relations Regulation 2011

55X Regulation amended

This division amends the *Industrial Relations Regulation 2011*.

[s 55Y]

55Y Omission of pt 12, div 2 (Expenditure ballots for spending for political purposes)

Part 12, division 2—

omit.

55Z Omission of sch 2C (Rules for conduct of expenditure ballot)

Schedule 2C—

omit.

Part 4 Minor and consequential amendments

56 Acts amended

Schedule 1 amends the Acts it mentions.

Schedule 1 Minor and consequential amendments

section 56

South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

1 Section 49A(2)(a), after ‘section 99BOB(b)’—

insert—

and (c)

2 Section 53AS(1)(c)—

omit, insert—

(c) a charge under section 99BRAN, 99BRAV or 99BRCI;

(d) a charge under a water infrastructure agreement under section 99BRCM;

3 Section 53AS(3), after ‘(1)(c)’—

insert—

or (d)

Sustainable Planning Act 2009

1 Section 20(1)(c)—

omit, insert—

(c) to provide for the matters mentioned in section 629.

2 Section 38(b)(ii)(A), ‘priority infrastructure plans’—

omit, insert—

LGIPs

3 Sections 78(2), 88(1)(e) and 212(3), ‘a priority infrastructure plan’—

omit, insert—

an LGIP

4 Section 85(1)(b) and (c)—

omit, insert—

(b) an LGIP.

5 Section 205, from ‘any charge’ to ‘part 1’—

omit, insert—

any adopted charge

6 Section 282(2)(f), from ‘section 655’—

omit, insert—

chapter 8, part 2, division 2, subdivision 2 or part 3—any relevant charges resolution.

7 Sections 313(2)(f) and 314(2)(i), ‘an adopted infrastructure charges resolution or the priority infrastructure plan’—

omit, insert—

the provider’s LGIP

-
- 8 Sections 315(1)(c), 346(2), note, 388(1)(a), 404(1)(c) and 720, ‘chapter 8, part 1’—**
omit, insert—
chapter 8, parts 2 and 3
- 9 Section 364(1), from ‘an infrastructure’ to ‘charge.’—**
omit, insert—
a levied charge.
- 10 Section 364(2), from ‘under’, first mention, to ‘section 648F’—**
omit.
- 11 Chapter 7, part 2, division 1, heading, ‘Establishment, constitution’—**
omit, insert—
Constitution
- 12 Section 724(1)(a), ‘its priority infrastructure plan’—**
omit, insert—
its LGIP
- 13 Section 724(1)—**
insert—
(ab) all supporting material used to draft its LGIP;
- 14 Section 724(1)(g)(ii) and (iii)—**
omit, insert—
(ii) an LGIP;

15 Section 724(1)(p) to (t)—

omit, insert—

- (p) each document mentioned in the LGIP used to prepare it;
- (q) each charges resolution of the local government;
- (r) a register (the *infrastructure charges register*) of all infrastructure charges the local government levies;

16 Section 724(1)(u), ‘chapter 8, part 2’—

omit, insert—

section 673

17 Sections 724(3) and 739(f), from ‘, regulated’ to ‘adopted infrastructure charges register’—

omit.

18 Section 724(3)(b), ‘schedule’—

omit, insert—

resolution

19 Section 724(4)—

omit.

20 Section 738(a), from ‘, including’ to ‘schedule,’—

omit, insert—

or charges resolution

21 Section 739(k), ‘section 662’—

omit, insert—

section 673

22 Section 834—

omit.

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