Queensland Reconstruction Authority Bill 2011

Explanatory Notes

Short title

The short title of the Bill is the Queensland Reconstruction Authority Bill 2011.

Objectives of the Bill

The Queensland Reconstruction Authority Bill 2011 will establish the Queensland Reconstruction Authority to coordinate reconstruction and recovery following the floods of December 2010 and January 2011 and Tropical Cyclone Yasi of February 2011.

The Bill also amends the following legislation for particular purposes: the *Building Act 1975;* the *Disaster Management Act 2003;* the *Integrity Act 2009*; the *Land Valuation Act 2010* and the *Public Service Act 2008*.

Reasons for the Bill

Queensland experienced significant and widespread flooding over large areas of the State during December 2010 and January 2011. In addition, Tropical Cyclone Yasi crossed the Queensland coast as a category 5 severe tropical cyclone and moved inland in February 2011.

The damage to Queensland homes, businesses and infrastructure caused by the floods and cyclone is unprecedented, and the recovery effort will require the dedication of significant resources for assessment, coordination and management of the reconstruction program across the State and involving all levels of government.

In view of the scale of devastation caused by the floods and cyclone, the Queensland Reconstruction Authority (the Authority) will be established as a new independent statutory authority to manage and coordinate the Government's program of infrastructure reconstruction and recovery within disaster-affected communities. The Authority will include a dedicated

North Queensland office with responsibility for reconstruction and recovery following Tropical Cyclone Yasi.

The Authority will be tasked with managing the reconstruction effort, but will not be responsible for reviewing events or decisions leading up to the floods. On 17 January 2011, a Commission of Inquiry was established to inquire into and report on the flood disaster. The Commission will examine matters including preparation and planning by government agencies and the community, performance of private insurers, all aspects of the response to the flood, adequacy of forecasts, operational procedures for flood mitigation and dam safety and land use planning. The Commission will deliver an interim report in August 2011 with a final report to be delivered by January 2012.

The Authority will advise the Government on possible implementation of any recommendations arising from the Commission's reports, particularly in relation to coordination of future flood mitigation measures, land use and regional planning.

The Bill also includes additional disaster-related amendments to the *Building Act 1975* to allow for the relaxation of statutory requirements relating to swimming pool fencing, to the *Land Valuation Act 2010* to allow a delay in the issuing of valuation notices and to the *Disaster Management Act 2003* to allow the suspension of deemed approvals during disaster situations.

Achievement of the Objectives

The Authority will have primary responsibility for coordinating, implementing and monitoring the rebuilding and recovery of communities that have been affected, damaged or destroyed by the floods and cyclone. The Authority will work across all levels of government to plan and facilitate an effective and coordinated program of reconstruction of community infrastructure and other property. The Authority will have the specific function of facilitating flood mitigation and ensuring the protection, rebuilding and recovery of disaster-affected communities is carried out effectively, efficiently and appropriately. In order to achieve this objective, the Authority will facilitate and expedite regulatory approvals from both State and local governments to rebuild infrastructure and other property.

In order to manage the reconstruction program, the Authority will decide priorities for community infrastructure and community services needed for

the protection, rebuilding and recovery of affected communities. In performing its functions, the Authority will take into account the social, economic and environmental impacts of the flood and cyclone damage and the broader needs of the community. As part of this process, the Authority will consider whether or not to replace like for like infrastructure and/or relocate or build alternative natural disaster-resilient infrastructure.

While local government will retain primary responsibility for land use and building approvals, the Authority will be vested with significant powers to enable it to effectively fulfil its functions.

In drafting the Bill, powers vested with the Authority have been based on existing powers available to Queensland Government officials and agencies. This includes adopting and, as necessary, adapting powers and processes from the *State Development and Public Works Organisation Act 1971*, the *Urban Land Development Authority Act 2007* and the *Sustainable Planning Act 2009*. This approach will ensure legislative consistency, while centralising relevant planning, decision-making, acquisition and works powers within the Authority to facilitate reconstruction of disaster-affected communities.

The Authority will be provided with a suite of powers which may be exercised in specified reconstruction areas (declared by regulation) or for reconstruction projects (declared by gazette notice). This includes the power to expedite both State and local government regulatory decisions or approval processes by issuing notices requiring a decision-maker to undertake a process (a "progression notice") or make a decision (a "notice to decide") or advising that the Authority will assume responsibility for making a decision (a "step-in notice"). These notices are based on powers of the Coordinator-General under the *State Development and Public Works Organisation Act 1971*.

The Authority will also be able to undertake planning functions by making a development scheme for a declared project or reconstruction area which would displace the local government planning scheme to the extent of any inconsistency. This process is based on the making of development schemes for urban development areas under the *Urban Land Development Authority Act 2007*. The Bill also includes a Ministerial power of direction for a local government to amend its planning scheme consistent with powers under the *Sustainable Planning Act 2009*.

Finally, the Authority will have the power to undertake reconstruction or development works in order to rebuild disaster-affected areas of the State.

The Authority may undertake works under direction of the Minister by regulation and will be able to acquire land in order to undertake works, implement a development scheme, or otherwise perform the Authority's functions.

The Authority may acquire land to undertake works authorised by regulation, and will be required to apply the process of the *Acquisition of Land Act 1967*, including payment of compensation, for this purpose. In addition, through declaration of a reconstruction area, a part of the area may be designated as "acquisition land" for reconstruction purposes. When such a declaration is made, the owner will be prevented from disposing of the land other than to the Authority or to another approved entity, such as a local government.

The operations of the Authority will be led by a chief executive officer, and overseen by a Board, which will be responsible for the overall strategic direction of the Authority. The Board will comprise a chairperson, two nominees of the Australian Government, one nominee of the Local Government Association of Queensland and three other members.

The Authority will be subject to direction from the responsible Minister on matters in the public interest. The Board will be required to report to the Minister on a monthly basis, with reports required to be made publicly available on the departmental website in the interests of transparency of the recovery process.

Given that the primary focus of the Authority will be on reconstruction and recovery following the recent natural disasters, the Bill includes a two year sunset clause. The Bill therefore includes transitional provisions which will transfer relevant powers and responsibilities to the Coordinator-General following cessation of the Authority's operations.

The Bill also includes a number of amendments to other Acts to support recovery efforts and to make necessary consequential amendments as follows:

- *Building Act 1975:* to include a six month exemption period from 8 January 2011 for pool safety certificate requirements for leasing of houses and units with non shared pools; to extend pool safety standard exemptions for tourist resort complexes; and to restore the capacity of building surveying technicians employed by local governments to perform certifying functions.

- *Disaster Management Act 2003*: to correct a technical error in relation to the extension of time for a disaster declaration; and to allow for a suspension of 'deemed approvals' under the *Sustainable Planning Act 2009* during disaster situations.
- *Land Valuation Act 2010:* to delay the date of issue of 2011 annual valuation notices to a date between 31 March 2011 and 30 June 2011.
- *Integrity Act 2009:* to provide that the chief executive officer of the Queensland Reconstruction Authority is a statutory office holder for section 72C of that Act.
- *Public Service Act 2008:* to provide that the Queensland Reconstruction Authority is a public service office and the chief executive officer of the Authority is the head of that public service office.

Alternative Ways of Achieving Objectives

In deciding to establish the Authority, the Government considered whether the reconstruction and recovery could be managed administratively through existing mechanisms. Given the magnitude of the damage caused by the recent disaster events and the number of people and communities affected, it was considered that a single entity should be responsible for managing the reconstruction. The establishment of the Authority as a statutory body will enable a targeted and coordinated approach to the work being undertaken and allow funds to be prioritised and applied in an efficient and effective manner.

In most cases reconstruction will be managed and implemented by local authorities and existing government entities; however, this Bill ensures the Authority has statutory powers to intervene where necessary to facilitate, expedite and undertake reconstruction efforts.

Estimated Cost for Government Implementation

Provision has been made for start-up costs of the Authority in the Mid-Year Financial and Economic Review. The ongoing costs for the Authority will be considered in more detail as part of the 2011-12 Budget process.

Consistency with Fundamental Legislative Principles

The Bill includes a number of breaches of fundamental legislative principles.

The Bill excludes the application of parts 3 and 5 of the *Judicial Review Act 1991* to a Ministerial declaration of a critical infrastructure project. This is considered justified on the grounds that such declarations would only be made in exceptional circumstances in order to protect a critical public interest warranting the removal of review rights. Such declarations may only be made where the Minister considers the project or development is critical or essential for the State for economic, environmental or social reasons.

The Bill also empowers the Authority to compulsorily acquire land and, for declarations of reconstruction areas to designate land as "acquisition land". When land is declared as acquisition land, owners will be prevented from disposing of the land, other than to the Authority or another nominated entity, such as a local government. The penalty for failure to comply with this provision will be 165 penalty units. While this will adversely affect the rights and liberties of individuals in dealing with their land, this provision is considered necessary for extreme circumstances for example, where it is necessary to prevent further occupation of flood-affected land.

The designation of part of a reconstruction area as acquisition land is intended to allow for a more flexible alternative to the usual acquisition processes, by deferring the compulsory acquisition process and allowing an owner of land to remain on their property until a later point in time. The acquisition of land would then be undertaken by the Authority or other nominated entity at a time when the owner advises that they wish to sell the land. At this point, the Authority or other entity must acquire the land in accordance with the *Acquisition of Land Act 1967* which provides for the payment of compensation for land taken.

The Bill also provides the Authority with powers of entry to land by applying provisions of the *State Development and Public Works Organisation Act 1971*. This power to enter land may only be exercised for the purposes of undertaking works as authorised under a regulation. In exercising the power, the Authority will not be empowered to enter residential premises, and must take all reasonable steps to minimise inconvenience and damage to an affected person. This power, which already exists under the *State Development and Public Works Organisation Act 1971* is considered necessary to enable the Authority to properly

undertake its function of carrying out work as directed by the Governor in Council under regulation.

The Authority will be empowered to require information from any person which is considered to be necessary for the effective and efficient carrying out of the Authority's functions. The penalty for failure to comply with a request for information will be 100 penalty units. This provision is considered necessary to allow the Authority to obtain information held by other entities, such as flood mapping data, which could assist in reconstruction and planning and prevent the recurrence of future flood events. The Bill does not allow the Authority to request personal information and confidentiality provisions within the Bill protect any information collected under this power from further release. It is noted that this provision will be subject to statutory restrictions on release of information, particularly under Commonwealth law.

The Bill includes a number of provisions which will affect the operations of local government, including by providing that the performance of a local government's functions or exercise of its powers for a declared project or reconstruction area are subject to the Authority's functions, and through allowing the Minister to direct the amendment of a development approval or a local planning instrument. It is considered important that the Authority be provided with appropriate power over local government planning processes, and that the Minister retain reserve powers to intervene in planning decisions, to ensure that critical State interests in reconstruction and recovery are met. The Bill also provides for consultation with local government on matters such as the declaration of declared projects or reconstruction areas.

In addition, the Bill includes a number of new offences in relation to the administration of the Bill, including penalties for a failure to act honestly, unauthorised disclosure of information or providing false or misleading information or documents. Given the importance of the Authority's functions and the significant public interest in ensuring that board members, officers of the Authority and other persons involved with the administration of this Bill act with the highest level of personal integrity, it is considered necessary to include such provisions in the Bill. The relevant penalties applying to such breaches reflect the seriousness of such conduct.

Additionally, there are specific penalties which apply to persons who mislead the Authority, or obstruct an officer of the Authority. Again, given the public interest in ensuring the Authority carries out its functions and

powers in an appropriate and expeditious manner, it is crucial that people do not interfere with the Authority or otherwise hinder its activities.

While the breaches of fundamental principles within the Bill are acknowledged, it is considered in the broader public interest for the Authority to be provided with these powers in order to allow the Authority to effectively undertake its function of reconstructing Queensland. These powers are considered justified in view of the extraordinary circumstances of the current scale and devastation of disaster events which have affected the majority of the State.

It is also important to note that many equivalent powers already exist in Queensland legislation, and may be exercised by the Coordinator-General, or their delegate, under the *State Development and Public Works Organisation Act 1971*.

Finally, the Bill includes a sunset clause of two years. Therefore, although the Bill will confer significant powers on the Authority, these powers will only be maintained for the period required to manage reconstruction and recovery after the disaster events, and will be repealed once the Authority has completed its functions of post-disaster reconstruction and recovery.

In relation to the additional amendments included within the Bill, the proposed amendments to the *Building Act 1975* in relation to leases of houses and units with non-shared pools will have retrospective effect from 8 January 2011. The date of retrospective operation is the date on which the Minister for Infrastructure and Planning and the Minister for Tourism and Fair Trading announced the Government's intention to respond to concerns regarding the availability of houses to be leased in flood-affected regions. The exemption will benefit lessors and potential tenants of houses and units with non-shared pools, particularly evacuees in disaster-affected areas seeking to be re-housed, and tradespeople relocating to disaster-affected areas to assist the recovery. In addition, the amendments to the *Building Act 1975* in relation to building surveying technicians will take effect from 1 January 2010. This amendment addresses unintended consequences of transitional provisions which took effect on 1 January 2010 in order to permit building surveying technicians to continue performing additional certifying functions when employed by local governments. The retrospective application of these amendments is considered justified in the circumstances.

The proposed amendments to the *Disaster Management Act 2003* allow the chairperson of the State Disaster Management Group to suspend deemed

approvals under the *Sustainable Planning Act 2009* during disaster situations. This will adversely affect the rights of individuals by precluding applicants from giving notice of a deemed approval if a council has not finalised assessment of an application due to a disaster situation. The amendments would only allow the suspension for a period of up to 20 business days and are considered necessary to allow flexibility for councils taking into account the extraordinary circumstances of extreme natural disaster.

Consultation

The Premier publicly announced the establishment of the Authority on 19 January 2011.

On 11 February 2011, the Premier convened a special disaster recovery meeting of the Mayors and chief executive officers from every local government in Queensland. At this meeting, councils were briefed on the functions of the new Authority and the process of reconstruction and recovery, including the Authority's role of working collaboratively with local government.

The Local Government Association of Queensland, the Real Estate Institute of Queensland and the Pool Safety Council were consulted regarding proposed pool safety certificate exemptions under the *Building Act 1975*.

The Local Government Association of Queensland, the Property Council of Australia, the Shopping Centre Council of Australia, the Queensland Law Society, the Queensland Tourism Industry Council, the Queensland Farmers Federation and the Australian Property Institute were consulted on the proposed amendments to the *Land Valuation Act 2010* as members of the Valuation Reform Reference Group.

All parties consulted support the objectives of the Bill.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and the extent to which it is uniform with or complementary to the Commonwealth or another state is not relevant in this context. However approaches in other jurisdictions, including the establishment of the Victorian Bushfire Reconstruction and Recovery Authority, were taken into consideration during the development of the Bill.

Notes on Provisions

Part 1 Preliminary

Division 1 Introduction

Clause 1 sets out the short title of the Bill.

Clause 2 establishes that the main purpose of the Bill is to provide for appropriate measures to ensure Queensland and its communities effectively and efficiently recover from the impacts of disaster events.

Clause 3 sets out how the main purpose of the Bill is to be achieved. The purpose is to be achieved primarily through:

- establishing the Queensland Reconstruction Authority (the Authority) to coordinate and manage the rebuilding and recovery of disaster-affected communities, including the repair and rebuilding of community infrastructure and other property;
- establishing the Queensland Reconstruction Board to oversee the operations of the Authority;
- providing for the declaration of "declared projects" and "reconstruction areas", and for the making of development schemes for declared projects and reconstruction areas, to facilitate flood mitigation or the protection, rebuilding and recovery of affected communities.

Clause 4 provides that the Bill binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and other States. The clause also provides that nothing in the Bill makes the State liable to be prosecuted for an offence.

Division 2 Interpretation

Clause 5 states that the dictionary in the schedule defines particular words used in the Bill.

Clause 6 provides that the *disaster event* means either the floods caused by heavy rains in Queensland in December 2010 and January 2011; severe tropical cyclone Yasi; or another disaster, within the meaning of the *Disaster Management Act 2003*, and prescribed under a regulation. The inclusion of a regulation-making power will allow flexibility in the Authority's jurisdiction in the event of any further disasters.

Part 2 Queensland Reconstruction Authority

Division 1 Establishment

Clause 7 establishes the Queensland Reconstruction Authority. The Authority is a new independent statutory authority.

Clause 8 provides that the Authority represents the State and has the status, privileges and immunities of the State.

Clause 9 provides that the Authority is a unit of public administration under the *Crime and Misconduct Act 2001*; and a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*.

The *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts) explains how that Act affects the Authority's powers. Part 2B of the *Statutory Bodies Financial Arrangements Act 1982* provides powers, such as banking, borrowing and investment powers, to statutory bodies, additional to powers provided under enabling legislation, including this Bill.

Division 2 Functions and powers

Clause 10 sets out the Authority's functions. In order to undertake the task of coordinating and managing the rebuilding and recovery of affected communities in an efficient and effective manner, the Authority's functions address a wide range of matters.

In addition to functions given to the Authority under this or another Act, the functions of the Authority include:

- deciding priorities for community infrastructure and community services needed for the protection, rebuilding and recovery of affected communities. The Authority will take into account the social and economic impacts of the disaster events on communities in prioritising reconstruction;
- working closely with disaster-affected communities to ensure each community's needs are recognised in the rebuilding and recovery of the communities;
- collecting and collating information about community infrastructure and other property, and community services, damaged or otherwise affected in a disaster event;
- developing an arrangement for sharing data across all levels of government to facilitate effective and efficient exchange of information to facilitate the protection, rebuilding and recovery of affected communities;
- coordinating and distributing financial assistance for affected communities;
- putting into effect the strategic priorities of the board;
- facilitating flood mitigation for affected communities and ensuring the protection, rebuilding and recovery of affected communities is effectively and efficiently carried out and appropriate having regard to the nature of the disaster event; and
- if asked by the Minister, giving advice about putting into effect the recommendations of the Commission of Inquiry established to investigate the flooding events, particularly any recommendations about flood mitigation or land use planning. The Commission of Inquiry was established under the *Commissions of Inquiry Order (No. 1) 2011* which was made by the Governor in Council on 17 January 2011.

Clause 11 sets out the Authority's general powers. The clause clearly provides that, subject to a Ministerial direction or notice under the Bill, it has all the powers of an individual, such as the power to: enter into contracts; acquire, hold, deal with and dispose of property; appoint agents and attorneys; engage consultants; and do anything else necessary or

convenient to be done in the performance of its functions. These powers are in addition to other powers given to it under this or another Act.

Clause 12 allows the Minister to give the Authority a written direction about the performance of the Authority's functions or the exercise of its powers, or written notice of a public sector policy, if the Minister is satisfied it is necessary to give the direction or notice in the public interest. The Authority must ensure the direction or policy is complied with.

If a direction or notice is given under this clause of the Bill, the Authority must include details of any direction or notice given by the Minister in the relevant annual report, and may include in the report a comment on the effect on the Authority's activities of complying with the direction or policy. This clause ensures that there is transparency in the process by which a direction is given.

Division 3 Membership of the Authority

Clause 13 provides that the Authority consists of the chief executive officer and other staff of the Authority.

Division 4 Staff of the Authority

Subdivision 1 Chief executive officer

Clause 14 provides that the Authority must have a chief executive officer, who is appointed by the Governor in Council.

Clause 15 stipulates that a member of the Queensland Reconstruction Board must not be appointed as chief executive officer.

Clause 16 states that the chief executive officer of the Authority is employed under this Act, and not under the *Public Service Act 2008*.

Clause 17 provides that the chief executive officer holds office for the term, not longer than the expiry of this Bill, stated in the officer's instrument of appointment.

Clause 18 sets out the functions and powers of the chief executive officer. The main functions and powers are:

- to ensure the Authority performs its functions effectively and efficiently;
- to undertake or commission investigations, prepare plans or take steps the Minister directs, or the chief executive officer considers necessary or desirable, to ensure proper planning, preparation, coordination and control of any development for the rebuilding and recovery of affected communities; and
- to make recommendations to the Minister about any matter that relates to the performance or exercise of the chief executive officer's or Authority's functions or powers and may help the Minister in the proper administration of this Act.

Also, the chief executive officer has any other function given to the chief executive officer under this Act or another Act.

The clause also stipulates that the chief executive officer may exercise the powers of the Authority and any other powers given to the chief executive officer under this Act or another Act.

Clause 19 prevents the chief executive officer from engaging in paid employment outside the duties of the office, actively taking part in the activities of a business, or managing a corporation without the approval of the Queensland Reconstruction Board.

Clause 20 sets the chief executive officer's conditions of appointment, which are that the chief executive officer is to be paid the remuneration and allowances decided by the Governor in Council and the chief executive officer holds office on the terms and conditions, not provided by this Act, that are decided by the Governor in Council.

Clause 21 provides for conditions on which the office of the chief executive officer may become vacant. This may occur if the chief executive officer: completes a term of office; resigns office by signed notice given to the Minister; is removed from office by the Governor in Council under this clause; is convicted of an indictable offence or an offence against this Act; or becomes an insolvent under administration under the *Corporations Act 2001* (Cth). Additionally, the Governor in Council may at any time remove the chief executive officer from office for any reason or none.

Clause 22 provides for the preservation of employment rights of the chief executive officer if a public service officer is appointed to the position. In

such cases, the person keeps all rights accrued or accruing to the person as if service as the chief executive officer were a continuation of service as a public service officer.

Further, at the end of the person's term of office or resignation as the chief executive officer:

- the person has the right to be appointed to an office in the public service on the same terms and conditions as applied before appointment as the chief executive officer; and
- the person's service as the chief executive officer is taken to be service of a like nature in the public service for deciding the person's rights as an officer of the public service.

Clause 23 ensures there is continuity in the role of the chief executive officer by providing that the Governor in Council may appoint a person (other than a member of the board) as an acting chief executive officer. This may occur during any vacancy, or all vacancies, in the office; or any period, or all periods, when the chief executive officer is absent from duty, or cannot perform the duties of the office.

Subdivision 2 Appointment of persons to help chief executive officer

Clause 24 allows the chief executive officer to appoint other people to help in the performance or exercise of the chief executive officer's functions or powers. In making such an appointment under this provision, the chief executive officer must consult with the chief executive of the Public Service Commission, although the appointment will be made under the Bill rather than the *Public Service Act 2008*. If a person is appointed under this clause, the person holds office on the terms and conditions stated in the person's instrument of appointment, or by signed notice given to the person.

This clause will allow the chief executive officer to engage further expertise to assist, for example, with the rebuilding and recovery of communities in North Queensland affected by Tropical Cyclone Yasi.

Clause 25 preserves the rights of a person appointed to help the chief executive officer under clause 24. In such cases, the person keeps all rights

accrued or accruing to the person as if service as the chief executive officer were a continuation of service as a public service officer.

As with the preservation of the chief executive officer's rights, at the end of the person's term of office or resignation:

- the person has the right to be appointed to an office in the public service at a salary level no less than the current salary level of an office equivalent to the office the person held before being appointed to the office under the previous clause; and
- the person's service is taken to be service of a like nature in the public service for deciding the person's rights as an officer of the public service.

Subdivision 3 Other Staff

Clause 26 allows the Authority to employ other staff it considers appropriate to perform its functions. Such staff are to be employed under the *Public Service Act 2008*.

Clause 27 provides that in addition to employing staff directly, the chief executive officer may arrange for other staff to be seconded to the Authority. The chief executive officer may make such arrangements in relation to officers or employees of another department, a local government, a government entity or a government owned corporation.

Where such arrangements are made, the person continues to be an officer or employee of the relevant entity and to be employed or engaged by the relevant entity on the same terms and conditions, but is taken to be a member of the staff of the Authority for the period the person's services are made available.

Part 3 Queensland Reconstruction Board

Division 1 The board

Subdivision 1 Establishment and functions

Clause 28 provides that the Authority has a board of management called the Queensland Reconstruction Board.

Clause 29 sets out the functions of the board, which are to:

- set the strategic priorities for the Authority;
- make recommendations to the Minister about priorities for community infrastructure, other property and community services needed for the rebuilding and recovery of affected communities; and the need for the declaration of reconstruction areas; and
- ensure the Authority performs its functions and exercises its powers in an appropriate, effective and efficient way.

Subdivision 2 Members

Clause 30 stipulates that the board consists of the chairperson, two members nominated by the Australian Government, one person nominated by the Local Government Association of Queensland and three other persons. The three other persons must have expertise and experience in engineering, finance, planning or another field the Minister considers appropriate. Each of these seven people are board members and must be appointed by the Governor in Council.

Clause 31 provides that a member holds office for a term, not longer than the expiry of this Bill, stated in the member's instrument of appointment.

Clause 32 states that the member is to be paid the remuneration and allowances decided by the Governor in Council and the member holds office on the terms and conditions, not provided by this Act, that are decided by the Governor in Council.

Clause 33 provides for the situation where there is a vacancy in office of a member. A member's office becomes vacant if the member:

- completes a term of office;
- resigns office by signed notice given to the Minister;
- is removed from office by the Governor in Council;
- is convicted of an indictable offence or an offence against this Act;
- is a person who is an insolvent under administration under the *Corporations Act 2001* (Cth); or
- becomes employed by, or becomes a contractor of, the Authority.

Additionally, the clause stipulates that the Governor in Council may at any time remove a member from office for any reason or none.

Subdivision 3 Chairperson

Clause 34 states that the chairperson is responsible for leading and directing the activities of the board to ensure the board performs its functions appropriately.

Subdivision 4 Proceedings of the board

Clause 35 allows the board to hold its meetings when and where it decides but requires that the board meet at least once each month. Further, the chairperson may at any time call a meeting of the board and must call a meeting if asked by at least two other members.

Clause 36 provides that a quorum for a meeting of the board is at least half of the members.

Clause 37 states that the chairperson presides at all meetings of the board at which the chairperson is present. However, if the chairperson is absent, the member chosen by other members present must preside.

Clause 38 provides for the conduct of board meetings. The clause stipulates that the board may conduct its proceedings, including its meetings, as it considers appropriate. This includes using any necessary

technology to hold the meeting, such as video conferencing. If such technology is used, the member who takes part in a meeting using this technology is taken to be present at the meeting.

The clause further provides that a question at a meeting of the board is to be decided by a majority of the votes of the members present at the meeting. If the votes are equal, the member presiding has a casting vote. Additionally, a resolution is a valid resolution of the board, even though it is not passed at a meeting of the board, if at least half the members give written agreement to the resolution and notice of the resolution is given under procedures approved by the board.

Clause 39 requires the board to keep minutes of its meetings and a record of any decisions and resolutions of the board.

Subdivision 5 Disclosure of conflict of interests and reporting requirements

Clause 40 sets out the procedure where a board member has a conflict of interest.

If a member has a direct or indirect pecuniary or other interest in a matter under consideration at a board meeting which could conflict with the proper performance of the member's duties, the member must disclose the nature of the interest at a board meeting as soon as possible. If such a disclosure is made, it must be recorded by the board in a register of interests kept for the purpose.

After a member has disclosed the nature of an interest in any matter, the member must not be present during any deliberation of the board about the matter, or take part in any decision of the board about the matter, unless the board otherwise decides. Where a conflict of interest has been disclosed by a member, that member must not be present during any deliberation on, or take part in the making of, the decision by the board.

A contravention of this clause does not invalidate any decision of the board, however, if the board becomes aware a member contravened these requirements, the board must reconsider any such decision made in which the member took part.

Clause 41 requires the board to give the Minister monthly reports about the performance of the Authority's functions and the exercise of its powers

during the month. In addition to this requirement, the board must supply a report about the performance of the Authority's functions and the exercise of its powers, upon request by the Minister. These reports must be published on the department's website.

Also, if the chairperson becomes aware of any matter which may adversely affect the Authority's ability to perform its functions or exercise its powers, the chairperson must immediately give the Minister a report about the matter.

Part 4 Declarations about declared projects, reconstruction areas and critical infrastructure projects

This part deals with declaration of projects, reconstruction areas and critical infrastructure projects.

Prior to the Authority exercising its powers under parts 5 or 6, the Minister must declare, or recommend the declaration of, 'declared projects' or 'reconstruction areas'. Declarations of reconstruction areas are made by the Governor in Council by regulation and declarations of declared projects are made by the Minister by gazette notice.

The Minister may also make or recommend such declarations at the request of local government, and must consider the responsibilities of the relevant local government in making or recommending such declarations.

Prior to making or recommending declarations of declared projects or reconstruction areas, the Minister must be satisfied that the declarations are appropriate to facilitate the reconstruction and recovery of communities affected by natural disaster.

Clause 42 provides the Minister may, by gazette notice, declare a project for proposed development to be a *declared project*. However, the Minister must not make such a declaration unless satisfied the part of the State where the project will be undertaken has been directly or indirectly affected by a disaster event and the declaration is necessary to facilitate flood mitigation, or for the protection, rebuilding and recovery of affected communities.

The declaration of a declared project must describe the land to which the declared project relates (such as through a lot on plan description). Importantly, the Minister may declare a project for proposed development to be a declared project on the Minister's own initiative or if asked to do so by a local government, and must consider the responsibilities of local government in making such a declaration.

Clause 43 provides that a regulation (called a *declaration regulation*) may declare a part of the State to be a *reconstruction area*. However, the Minister must not recommend to the Governor in Council the making of a regulation unless the Minister is satisfied the part of the State has been directly or indirectly affected by a disaster event and the declaration is necessary to facilitate flood mitigation, or for the protection, rebuilding and recovery of affected communities.

Before recommending to the Governor in Council the making of a declaration regulation, the Minister must have regard to the responsibilities of the relevant local government for matters about land use, and the giving of development approvals, for the local government's area.

A declaration regulation for a reconstruction area may declare land in a part of the area to be *acquisition land*. The particular conditions applying to the sale of acquisition land are set out in clause 100, however, this land must be acquired by the Authority, or a nominated local government specified in the declaration regulation, if requested by the owner of the land.

Additionally, the Minister must be satisfied the declaration is necessary for the Authority to effectively and efficiently carry out its reconstruction functions. In accordance with declarations of declared project, the Minister may recommend to the Governor in Council the making of a declaration regulation on the Minister's own initiative or if asked to do so by a local government.

Clause 44 states that as soon as practicable after land is declared to be acquisition land, the Authority must give each owner of the land a notice about the declaration. This includes advising the owner about how the declaration will affect their dealing with the land. The registrar of titles must keep records showing that the land is subject to the declaration, which will be searchable on the freehold land register.

Clause 45 applies if the Minister considers the undertaking of a declared project, or particular development in a reconstruction area, is critical or essential for the State for economic, environmental or social reasons. The Minister may, by gazette notice, declare the project or development to be a

critical infrastructure project. A decision to declare a critical infrastructure project and any decision made under part 5 in relation to a critical infrastructure project are excluded from the application of certain parts of the *Judicial Review Act 1991* under clause 61.

Division 2 Relationship with particular Acts about local government

Clause 46 provides that the declaration of a declared project or a reconstruction area does not affect:

- the operation of the *City of Brisbane Act 2010* or the *Local Government Act 2009* in relation to land the subject of the declared project or land in the reconstruction area;
- the area of the relevant local government; or
- the jurisdiction, under the Acts, of the relevant local government.

The purpose of this provision is to ensure that the declaration of declared projects and reconstruction areas does not generally affect the jurisdiction of local governments. Local governments will retain primary responsibility for planning and development approvals, although the Bill provides the Authority with powers of intervention to be used when necessary to expedite reconstruction efforts. When such functions or powers are exercised by the Authority for declared projects or reconstruction areas, the performance of the relevant local government's functions or the exercise of its powers will be subject to the Authority's functions or powers under this Bill.

Part 5 Particular powers for declared projects and development in reconstruction areas

Division 1 Preliminary

Clause 47 sets out relevant definitions for key terms used in part 5 of the Bill.

Clause 48 clarifies that this part of the Bill applies despite any other law.

Division 2 Notices about declared projects and development in reconstruction areas

The notices which may be given under this division of the Bill are based on notices which may be issued by the Coordinator-General under part 5A of the *State Development and Public Works Organisation Act 1971*. The powers and processes for the issuing of these notices are consistent with the relevant provisions of that Act but have been adapted to suit the purposes of this Bill.

Subdivision 1 Progression notice

Clause 49 provides that the Authority may, by notice (called a *progression notice*) given to the decision-maker for a prescribed process, require the decision-maker to undertake, within the period stated in the notice, administrative processes required to complete the process. A *prescribed process* is a process in relation to a declared project or development in a reconstruction area required under law to be taken, such as the giving of an acknowledgement notice under the application stage of IDAS.

A progression notice must identify the process to be completed, state that the decision-maker must undertake the process within a specified period. The Authority may extend the period for undertaking the prescribed process. If a decision-maker receives a progression notice, the

decision-maker must undertake the prescribed process within the period stated in the notice (or the extended period – if such an extension has been given) and inform the Authority of the completion of the process within five business days after it is completed.

Before giving a progression notice for a prescribed process the Authority must have regard to the requirements, if any, under the relevant law for the undertaking of the process. Subject to this clause, the relevant law for the prescribed process continues to apply to the undertaking of the process.

Subdivision 2 Notice to decide

Clause 50 provides that the Authority may, by notice (called a *notice to decide*) given to the decision-maker for a prescribed decision, require the decision-maker to make the decision within the period stated in the notice. A *prescribed decision* is a decision in relation to a declared project or development in a reconstruction area required under law to be made, such as a decision on an application for a development approval, but does not include a decision of the Governor in Council or a Minister.

When a notice to decide is given, the period given to make the decision must be at least 20 business days or, if the decision-maker would be required to make the decision within a period that is less than 20 business days, the lesser period. The Authority may extend the period for making the prescribed decision.

The notice to decide must identify the decision and state the decision-maker must make the decision within the stated period. If a decision-maker receives a notice to decide, the decision-maker must make the prescribed decision within the period stated in the notice (or within any extended period – if such an extension has been given) and inform the Authority of the decision within five business days.

If the prescribed decision relates to an application for a development approval under the *Sustainable Planning Act 2009*, the notice to decide may be given to the decision-maker only after the decision stage for the application starts.

Before giving a notice to decide for a prescribed decision, other than a decision relating to an application for a development approval under the *Sustainable Planning Act 2009*, the Authority must have regard to the requirements, if any, under the relevant law for the decision about public

notification of information or other matters in relation to the decision. Subject to this clause, the relevant law for the prescribed decision continues to apply to the making of the decision.

Subdivision 3 Step-in notice

Clause 51 states that the Authority may, with the approval of the Minister, give the decision-maker and applicant for a prescribed decision or a prescribed process a notice (called a *step-in notice*). This notice may advise a decision-maker and applicant that the Authority is to make an assessment and a decision about a prescribed decision or process, effectively taking responsibility for making the decision in place of the decision-maker.

The Minister may only approve the giving of a step-in notice if the Minister is satisfied the giving of the notice is necessary to facilitate flood mitigation or the protection, rebuilding and recovery of an affected community. This notice effectively gives the Authority the power to make an assessment and decision about a prescribed decision or process. When a step-in notice is given, the Authority assumes the role of decision-maker.

Clause 52 sets out the circumstances in which a step-in notice may be given. The Authority may give a step-in notice for a prescribed decision or process only after a progression notice or notice to decide has been given for the process or decision. Alternatively, a step-in notice may be given for a prescribed decision at any time after the decision is made until ten business days after:

- the start of an appeal or review (if an appeal or review against the decision has been started under the relevant law for the decision); or
- after the expiry of the period for starting an appeal or review against the decision.

If a progression notice or notice to decide has been given, a step-in notice may be given:

- at any time after the Authority is satisfied the decision-maker has not complied with the progression notice or notice to decide, but before the decision-maker has undertaken the process or made the decision; or

- if the decision-maker has complied with the progression notice or notice to decide—only on request by the applicant, given to the Authority within ten business days after notification of the decision.

If a step-in notice is given at the request of the applicant, then the notice must be given to the decision-maker within a reasonable period after the Authority receives the request.

Clause 53 provides that a decision-maker for the prescribed decision or process must give the Authority all reasonable assistance or materials it requires to act under this subdivision. The giving of this information is necessary to ensure that the Authority has all relevant material necessary to make the decision.

Further, the clause goes on to state that the Authority may, by notice, require the decision-maker to provide within a stated period, a written report containing: an assessment of certain matters relevant to the decision or process; or recommendations about the assessment, such as proposed conditions.

Additionally, a local government may give the Authority a written recommendation to impose a condition for infrastructure to which the *Sustainable Planning Act 2009*, chapter 8, part 1 applies, if the local government could have otherwise imposed such a condition. This provision ensures that the decision-maker may still provide input and recommend conditions on the making of a decision by the Authority.

Clause 54 sets out the effects of issuing a step-in notice. If the Authority gives a step-in notice for a decision or process, the Authority is the decision-maker under the relevant law, and the decision is taken to be the exercise of a power or performance of a function of the Authority under this Bill.

Further, in order to make the decision, the Authority has all the powers of the decision-maker under the relevant law for the prescribed decision or process. The Authority must consider the criteria, if any, for making the prescribed decision under the relevant law for the decision or process as well as the main purpose of this Bill. The ability for the Authority to consider the main purpose of the Bill in making a decision will allow the reconstruction objectives of the Authority to be taken into account in the making of the decision or undertaking of the process.

If the prescribed decision or process relates to an application for a development approval under the *Sustainable Planning Act 2009*, then the

assessment manager and each concurrence agency for the application is, under that Act, taken to be an advice agency for the application until the Authority makes a decision about the prescribed decision or process. This ensures that input of relevant regulatory agencies is taken into account in the making of a decision under a step-in notice.

Once a step-in notice has been given, any appeal or review which was started in relation to the decision or process under the relevant law is of no further effect.

Clause 55 provides for the process by which the Authority makes a decision for a step-in notice. If a decision has not been made or process undertaken by the decision-maker, the Authority may either: make the decision or undertake the process; send the decision or process back to the decision-maker, with or without conditions; or decide aspects of the decision and send back undecided aspects of the decision, with or without conditions.

If a decision has been made by the original decision-maker, the Authority may confirm or amend the decision or cancel the decision and substitute a new decision.

In making an assessment about a prescribed decision or process, the Authority may impose conditions considered necessary or desirable having regard to the nature of the declared project, or development in the reconstruction area, any criteria for the prescribed decision, and the main purpose of this Bill.

If the Authority receives a recommendation from a local government to impose a condition about infrastructure, the Authority must impose the condition unless the Minister directs otherwise. The Authority's decision to impose such a condition is taken to be a decision for the purposes of the *Sustainable Planning Act 2009*, section 633(2)(b) (Infrastructure charges notices).

If the Authority imposes a condition as part of its decision, the Authority may nominate an entity that is to have jurisdiction for one or more of the conditions. The Authority must give any nominated entity, the decision-maker and the applicant notice of the nomination.

The relevant law for the prescribed decision or process applies to the making of the Authority's decision under this clause.

Clause 56 states the effects of the Authority's decision under a step-in notice. The Authority's decision about the prescribed decision or process, including a decision to impose a condition:

- is taken to be a decision of the original decision-maker under the relevant law for the prescribed decision or process but a person may not appeal against the Authority's decision under this Act or the relevant law; and
- takes effect when the applicant for the prescribed decision or process and the original decision-maker are given notice of the Authority's decision.

A condition imposed by the original decision-maker in relation to the prescribed decision is of no effect to the extent it is inconsistent with a condition imposed by the Authority.

Additionally, if the original decision-maker makes another prescribed decision for the declared project, or development in the reconstruction area, to which the step-in notice relates, the other prescribed decision must not be inconsistent with the Authority's decision.

It should be noted that review rights under the *Judicial Review Act 1991* remain for development that is not a critical infrastructure project.

Clause 57 provides that the Authority must give notice of its decision about the prescribed decision or process to the applicant and decision-maker; and each entity nominated by the Authority to have jurisdiction for a condition in relation to the prescribed decision or process. The notice must include the reasons for the Authority's decision and any conditions the Authority has imposed in relation to the decision.

Clause 58 requires the Authority to prepare a report about each step-in notice given for a prescribed decision or process. The report must include a copy of the step-in notice, details of each entity nominated to have jurisdiction for a condition in relation to the prescribed decision or process, a copy of the Authority's decision and other details about the Authority's decision required by the Minister. The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after notice of the Authority's decision is provided.

Division 3 Other matters

Clause 59 applies where the Authority obtains advice or services from another entity in order to make an assessment under this part of the Bill. The Authority may recover the reasonable cost of obtaining the advice or services as a debt from the applicant.

Clause 60 clarifies that the Authority is not required to consult with anyone before giving a progression notice or notice to decide under this part of the Bill.

Clause 61 provides for the application of the *Judicial Review Act 1991* to the Bill. Specifically, parts 3 (Statutory orders of review) and 5 (Prerogative orders and injunctions), other than section 41(1) (Certain prerogative writs not to be issued) of the *Judicial Review Act 1991*, do not apply to decisions of the Minister and the Authority in relation to critical infrastructure projects. This includes decisions of the Minister to declare a critical infrastructure project, or decisions of the Authority about progression notices, notices to decide or step-in notices for critical infrastructure projects. This includes decisions or conduct leading up to or forming part of the making of any of these decisions.

Part 6 Development schemes

The making of development schemes under this part of the Bill is based on development schemes which may be made by the Urban Land Development Authority under part 3 of the *Urban Development Authority Act 2007*. The powers and processes for the making of development schemes are consistent with the relevant provisions of that Act but have been adapted to suit the purposes of this Bill.

Division 1 Making development schemes

Clause 62 provides that, subject to the other provisions of this division, the Authority may make a development scheme for a declared project, or part of a reconstruction area. The development scheme is a statutory instrument

under the *Statutory Instruments Act 1992* and has the force of law as provided for under this Act.

Clause 63 states that the development scheme may provide for any matter that the Authority considers will promote the proper and orderly planning, development and management of the declared project or reconstruction area. The development scheme must include: a land use plan regulating development for the project or in the area; a plan for infrastructure for the project or in the area; and an implementation strategy to achieve the reconstruction function of the Authority for the project or in the area, to the extent it is not achieved by the land use plan or the plan for infrastructure.

The clause provides clarification that the land use plan may:

- provide for any matter about which a planning instrument under the *Sustainable Planning Act 2009* may provide;
- identify development for the project or in the area to be certain categories of development under the *Sustainable Planning Act 2009:*
- require impact or code assessment, or both impact and code assessment, for assessable development;
- include a code for the Integrated Development Assessment System (IDAS); or
- state that particular development is consistent or inconsistent with the plan.

In making the development scheme, the Authority must consider, but is not bound by, a requirement under any of the following relevant to the project or area: a planning instrument or a plan, policy or code made under the *Sustainable Planning Act 2009* or another Act. The purpose of this provision is to clarify the relationship between the development scheme and planning instruments under the *Sustainable Planning Act 2009*. This reflects the policy that the Authority will negotiate a whole-of-Government position on planning issues for a declared project or reconstruction area.

Clause 64 states that a development scheme may provide that assessable development prescribed under the *Sustainable Planning Act 2009,* section 232(1) (Regulation may prescribe categories of development or require code or impact assessment) is not assessable development for a declared project or reconstruction area.

If a development scheme provides that development is not assessable development for the declared project or reconstruction area, the

development is not assessable development under the *Sustainable Planning Act 2009*, section 232(1) (Regulation may prescribe categories of development or require code or impact assessment) for the declared project or reconstruction area. This enables a development scheme to effectively 'turn off' assessment triggers under the *Sustainable Planning Regulation 2009* schedule 3, part 1 (Assessable development) where appropriate to facilitate reconstruction objectives.

A development scheme may provide that an entity that, but for the development scheme, would be a referral agency for a development application for the declared project or reconstruction area, is not a referral agency for the development application under the *Sustainable Planning Act 2009*. This enables a development scheme to effectively 'turn off referral triggers under the *Sustainable Planning Regulation 2009* schedule 7 (Referral agencies and their jurisdictions), where appropriate to facilitate reconstruction objectives.

Clause 65 states that, before preparing a proposed development scheme, the Authority must consult with the relevant local government and make reasonable endeavours to consult with a government entity, government owned corporation or another person or entity considered likely to be affected by a development scheme.

Clause 66 states that, after preparing the proposed development scheme, the Authority must publish the proposed scheme on its website; and publish notices in the Government Gazette and local newspapers advising that the scheme is available on the Authority's website. Further, the notices must invite submissions on the proposed scheme within a stated period of at least 30 business days.

Clause 67 provides that anyone may make submissions about the proposed development scheme within the submission period.

Clause 68 states the Authority must consider any submissions received within the submission period. However, the Authority is not prevented from considering a submission made to it after the submission period has ended.

Clause 69 provides that the Authority may amend the proposed development scheme in any way it considers appropriate after it has considered any submission received in relation to the scheme. If significant changes are made to the scheme, it must again publish public notices about the proposed scheme and consider any submissions made about the amended scheme.

Clause 70 states that, as soon as practicable after the Authority has considered any submissions made about a proposed scheme or amended scheme, it must submit the scheme to the Minister. This submitted scheme must be accompanied by a report that summarises the submissions considered by the Authority, including the merits of the submissions and to what extent the proposed development scheme was amended to reflect the submissions.

Clause 71 ensures that submitters are made aware that the scheme has been made and that the Minister has power under clause 72 to amend the scheme. The clause provides that after giving the Minister the submitted scheme, the Authority must give each person who made a submission a notice stating that:

- the scheme has been made and submitted to the Minister;
- the Authority's report about the submitted scheme can be inspected on its website; and
- if the submitter is an affected owner, they may, within 20 business days, ask the Minister to amend the submitted scheme to protect the owner's interests.

Clause 72 provides that the Minister may amend the submitted scheme in a way considered appropriate to protect an affected owner's interests. The amendment may be made only if the affected owner has asked the Minister to amend it to protect the owner's interests in accordance with clause 71. The amendment must be made within 40 business days after the scheme was submitted to the Minister.

Clause 73 allows the Minister to require the Authority to publicly notify the scheme again and consider submissions on an amended scheme, if an amendment significantly changes a submitted scheme.

Clause 74 provides that the development scheme does not take effect until it has been approved under a regulation.

Clause 75 provides that, as soon as practicable after the development scheme takes effect, the Authority must publish the scheme on its website; and publish a notice in a local newspaper advising that the scheme is available on the Authority's website. Further, the Authority must provide each person who made a submission with a notice that the scheme has been approved and that the report about the scheme may be inspected on the Authority's website.

Division 2 Amendment, tabling and inspection of development schemes

Clause 76 allows the Authority to amend a development scheme provided that procedures for making the development scheme under division 1 have been followed. The processes under division 1 apply as if the references to making a development scheme were to the making of the amendment, and the references to the proposed development scheme were to the proposed amendment. This ensures that processes of public consultation are adhered to in making an amendment to a development scheme.

Clause 77 deals with tabling procedure if a development scheme is made or amended under regulation and the scheme or amendment is not part of, or attached to, the regulation. The Minister must, when the regulation is tabled in the Legislative Assembly, also table a copy of the development scheme or amendment. However, a failure to comply with this clause does not invalidate or otherwise affect the regulation.

Division 3 Effect of development scheme on other instruments

Clause 78 provides that, if there is a conflict between a development scheme and a planning instrument; or a plan, policy or code made under the *Sustainable Planning Act 2009* or another Act, then the development scheme prevails to the extent of the inconsistency.

This provision clarifies the relationship between development schemes and other instruments and establishes that the development scheme is the pre-eminent instrument, and will prevail over State planning regulatory provisions and regional plans under the *Sustainable Planning Act 2009*.

Division 4 Relationship with *Sustainable Planning Act 2009*

Under the Bill, the *Sustainable Planning Act 2009* will continue to apply to declared projects and reconstruction areas. Local government planning schemes and other planning instruments will continue to apply, and

development applications and requests for compliance assessment will continue to be assessed and decided using IDAS under the *Sustainable Planning Act 2009*.

In this way, the Bill maintains consistency with the *Sustainable Planning Act 2009* and its objectives of coordinating local, regional and state planning and managing the process by which development takes place. However, where a development scheme is in place for a declared project or reconstruction area, the development scheme will be relevant in assessing and deciding development applications and requests for compliance assessment, along with other planning instruments, but will prevail over other planning instruments to the extent of any inconsistency.

Subdivision 1 Preliminary

Clause 79 provides that subdivisions 2 (Assessing development applications) and 3 (Deciding development applications) apply to a development application under the *Sustainable Planning Act 2009* for development in an area to which a development scheme for a declared project, a reconstruction area or part of a reconstruction area applies.

Subdivision 2 Assessing development applications

Clause 80 provides that a referral agency must, in assessing the development application, have regard to the development scheme. This clause does not limit the *Sustainable Planning Act 2009*, section 282 (Referral agency assesses application). The effect of this clause is that the development scheme becomes an instrument that the referral agency must consider in assessing any applications, in addition to the instruments mentioned in the *Sustainable Planning Act 2009*, section 282.

Clause 81 states that an assessment manager must assess the development application against the development scheme. This section does not limit the *Sustainable Planning Act 2009*, sections 313 (Code assessment – generally), 314 (Impact assessment – generally) and 316 (Assessment for section 242 – Preliminary approvals that affect a local planning instrument).

The effect of this clause is that the development scheme becomes an instrument that the assessment manager must consider in assessing any applications, in addition to the instruments mentioned in the *Sustainable Planning Act 2009*, sections 313, 314 and 316.

For assessing a development application under the *Sustainable Planning Act 2009*, chapter 6 (Integrated Development Assessment System (IDAS), part 5 (Decision stage), division 2 (Assessment process), the development scheme is a law for sections 311 or 317 of that Act. This ensures that development applications made before a development scheme takes effect will continue to be assessed against the planning instruments, codes, laws and policies in effect when the application was properly made, but enables the development scheme to be given weight if it came into effect before the decision stage started or was re-started.

Subdivision 3 Deciding development applications

Clause 82 provides that the assessment manager's decision on the development application may be inconsistent with a State planning regulatory provision, if the conflict is necessary to ensure the decision complies with the development scheme. This clause applies despite the *Sustainable Planning Act 2009*, section 324(3) or 327(3). Under the *Sustainable Planning Act 2009*, an assessment manager's decision about a development application must not be inconsistent with a State planning regulatory provision. This clause recognises that there may be situations where a development scheme is inconsistent with a State planning regulatory provision. As the development scheme is intended to be the pre-eminent instrument, situations may arise where a decision on a development application must be inconsistent with a State planning regulatory provision, in order to achieve consistency with the development scheme.

Clause 83 provides that the assessment manager cannot grant a development approval for the development application if the development would be inconsistent with the land use plan for the development scheme. If an application is inconsistent with a development scheme, it must be refused.

There is one exception to this restriction, namely the situation where a preliminary approval under the *Sustainable Planning Act 2009* is in force

for the land and the development would be consistent with the preliminary approval. In this circumstance, an approval could be given even though it would be inconsistent with the land use plan. However, it is clear that an assessment manager is not required to give an approval in this situation.

Subdivision 4 Compliance stage under IDAS

Clause 84 provides that the compliance stage under the *Sustainable Planning Act 2009* applies to development identified in a development scheme as development requiring compliance assessment, or a document or work stated in a development scheme as a document or work requiring compliance assessment.

Clause 85 states that a development scheme may state that a document or work is a document or work requiring compliance assessment. It should be noted that under clause 63(3)(b), a development scheme may also identify development as development requiring compliance assessment.

If a development scheme identifies development requiring compliance assessment, or states that a document or work is a document or work requiring compliance assessment, the development scheme must state:

- the matters or things against which the development, document or work must be assessed; and
- the entity to whom a request for compliance assessment under the *Sustainable Planning Act 2009* must be made (an entity is a compliance assessor for the request under the *Sustainable Planning Act 2009*).

The development scheme also may state, for documents or work, when the request for compliance assessment must be made.

Clause 86 provides that for assessing a document or work requiring compliance assessment, the *Sustainable Planning Act 2009*, section 398(3) applies as if that section included a reference to a development scheme.

Section 398 of the *Sustainable Planning Act 2009* provides that a condition of a development approval can nominate documents or work as requiring compliance assessment. However, the matters or things that the development must be assessed for compliance against must be contained or referenced in a regulation or another instrument such as a State planning regulatory provision, a State planning or a planning scheme or part of a

planning scheme. This clause ensures that a condition can require the document or work to be assessed for compliance against a development scheme.

Clause 87 states that for assessing development, a document or work requiring compliance assessment, a development scheme is a relevant instrument for the *Sustainable Planning Act 2009*, section 403 (Assessment of request). This ensures that a request for compliance assessment can be assessed against a development scheme.

Clause 88 sets out that a person must comply with a requirement, under a development scheme, to request compliance assessment of a document or work within a period stated in the development scheme. A maximum penalty of 165 penalty units applies to a breach of this provision. This provision ensures that a similar offence applies for development schemes as is established under section 577 of the *Sustainable Planning Act 2009*.

Subdivision 5 Existing uses

This subdivision ensures that existing lawful uses of premises, lawfully constructed buildings, and existing development approvals and compliance permits cannot be affected by a new development scheme, or an amendment of a development scheme. These provisions reflect the *Sustainable Planning Act 2009*, sections 682, 683 and 684, and are intended to ensure that existing uses and rights are protected under this Bill in a similar way as under the *Sustainable Planning Act 2009*.

Clause 89 protects an existing lawful use of premises and applies if, immediately before a development scheme takes effect, the use of premises to which the scheme relates was a lawful use of the premises. The clause sets out that neither the development scheme nor an amendment of the scheme can stop the use from continuing, further regulate the use, or require the use to be changed.

Clause 90 provides that to the extent a building has been lawfully constructed or work lawfully carried out, neither a development scheme nor an amendment of a development scheme can require the building or work to be altered or removed.

Clause 91 applies if a development approval or compliance permit exists for premises and, after the approval or permit is given, a new development scheme or amendment of a development scheme commences. To the

extent the approval or permit has not lapsed, neither the development scheme nor the amendment can stop or further regulate the development, or otherwise affect the approval or permit.

Clause 92 gives the Minister the power to amend development approvals and compliance permits in existence prior to a development scheme taking effect for a reconstruction area. This provision applies despite clauses 89, 90 and 91. The Minister may only amend an existing development approval or compliance permit if the approval or permit relates to a reconstruction area for which a development scheme is in effect and the Minister is satisfied the amendment is necessary for the carrying out of the Authority's reconstruction function.

Any amendment made by the Minister becomes part of the approval or permit, is taken to have been made by the entity that gave the approval or permit, and takes effect upon the Minister giving notice of the amendment to that entity and the holder of the approval or permit.

This clause recognises that while it is important to protect existing rights, there may be circumstances where a development approval or compliance permit is inconsistent with the Authority's reconstruction functions. In these circumstances, it may be appropriate for a change to be made to the approval or permit to ensure that, for example, communities are protected from the impacts of future flood events.

Subdivision 6 Community infrastructure designations

Clause 93 states that a community infrastructure designation under the *Sustainable Planning Act 2009* cannot be made for land to which a development scheme applies. However, a community infrastructure designation in force immediately before a development scheme takes effect for land, continues in force for the land. The clause applies despite the *Sustainable Planning Act 2009*, chapter 5.

The intent of this provision is to recognise existing community infrastructure designations, but to prevent further community infrastructure designations being made while the development scheme is in effect. This reflects the role of the development scheme as a holistic response to planning for a reconstruction area or prescribed project.

Clause 94 states how IDAS applies to land under a community infrastructure designation that is in force immediately before a development scheme takes effect. Development under the designation is exempt development under the *Sustainable Planning Act 2009*, to the extent the development is self-assessable development, development requiring compliance assessment or assessable development under the development scheme. This provision has the effect that a development scheme cannot change the categories of development under the designation.

Subdivision 7 Miscellaneous provision

Clause 95 provides that the Authority may bring a proceeding in the Planning and Environment Court for a declaration about a matter done, to be done or that should have been done for this Bill, the interpretation of this Bill, or the lawfulness of land use or development for a declared project or in a reconstruction area. The court may make a declaration about a matter mentioned in this clause, or any orders it considers appropriate.

Part 7 Undertaking works, taking land, dealing with roads and application of particular laws

This part of the Bill establishes particular powers which the Authority will have in order to expedite reconstruction in affected communities. Specifically, this includes the ability to undertake works, deal with roads and take land to the Authority's reconstruction functions are able to be carried out.

Division 1 Provisions about undertaking works

Clause 96 stipulates that if the Minister is satisfied that, for the effective and efficient carrying out of the Authority's reconstruction function,

particular works should be undertaken by the Authority, a regulation may direct the Authority to undertake the works.

If a regulation directs the Authority to undertake the works, the *State Development Public Works Organisation Act 1971*, sections 110, 111(2) to (4) and 112 apply in relation to the direction as if—

- the references in the sections to section 109 were a reference to this clause; and
- the references in the sections to the Coordinator-General were references to the Authority; and
- the reference in section 110 (1) of that Act to 'or other person directed under the section' were omitted; and
- the reference in section 110 (2) of that Act to 'or by another person on behalf of the Coordinator-General' were omitted.

This clause applies relevant sections of the *State Development and Public Works Organisation Act 1971* to the undertaking of works by the Authority. The effect of this clause is that these provisions of the *State Development and Public Works Organisation Act 1971* apply in the following way:

"**110 Undertaking of particular works**

(1) As soon as practicable after a regulation is made under *this clause* the *Authority* [words omitted] shall, subject to and in accordance with the regulation, take and cause to be taken all steps necessary to undertake the works to which the regulation relates.

(2) Works directed by the regulation to be undertaken by the *Authority* [words omitted] shall, for the purposes of the *Land Act 1994* be taken to be community purposes within the meaning of that Act.

111 Delegation of authority of the Authority

(2) A power, function, or duty conferred or imposed on the *Authority* by a regulation:

(a) shall not be delegated save with the approval of the Governor in Council first had and obtained in lieu of the approval of the Minister; and

(b) may be delegated only to a local body or any of the following under the *Public Service Act 2008*—

i. a chief executive;

ii. a senior executive;

iii. a term appointee whose remuneration is equivalent to, or more than, that of a senior executive.

(3) An entity to whom such a power, function or duty is delegated shall, in its performance thereof, be subject to and comply with the directions given in relation thereto by the *Authority.*

(4) The *Authority* may, at any time, and shall, at the direction of the Governor in Council, revoke a delegation of such a power, function or duty but such revocation shall not affect anything done or anything arising out of anything done under the authority of the delegation prior to its revocation.

112 Borrowing of money for works

For the purpose of enabling a local body to undertake works under the authority of a delegation duly given by the *Authority* and subsisting, and to borrow money for that purpose, the undertaking of those works shall be deemed to be a function of that local body under the Act under which the local body is appointed or constituted and, in the case of a local body that is a local government, shall be deemed to be a function of local government."

Clause 97 provides that where works are undertaken by the Authority under this Bill, the acquisition, management, operation and control of the works can be transferred to a relevant person or body. In these circumstances, the *State Development and Public Works Organisation Act 1971*, section 134 (Power of the Coordinator-General to negotiate transfer of works undertaken by the Coordinator-General) applies in relation to authorised works under this Bill as if—

- the references in the section to the Coordinator-General were references to the Authority; and
- the references in the section to authorised works were references to authorised works under this Act; and
- the reference in section 134(2) of that Act to the Minister were a reference to the Minister administering this Act.

The effect of this clause is that this provision of the *State Development and Public Works Organisation Act 1971* applies in the following way:

"**134 Power of the *Authority* to negotiate transfer of works undertaken by the *Authority***

(1) When the *Authority* is satisfied that works undertaken by the *Authority* as authorised works have been completed in accordance with the plans and specifications therefore, or have attained such a stage as to be available for use for the purpose for which they were undertaken the *Authority* may, subject to this section, negotiate and enter into agreement:

(a) with any person or instrumentality representing the Crown; or

(b) with any local body; or

(c) with any entity established under an Act;

that is authorised or required to undertake works of a similar nature for the acquisition, management, operation and control of the authorised works by such person, instrumentality, or local body (the ***transferee***).

(2) The Minister shall submit to the Governor in Council particulars of an agreement negotiated between the *Authority* and the transferee and no such agreement shall be entered into or, being entered into, have any effect until its terms are approved by regulation.

(3) The transferee is hereby authorised to acquire, manage, operate and control the authorised works pursuant to an agreement relating thereto approved by the Governor in Council and the same shall be deemed to be a function of the transferee under the Act under which he, she or it, as the case may be, is appointed or constituted and, where the transferee is a local government, shall be deemed to be a function of local government.

(4) From time to time the *Authority* certify what land vested in the Crown is included in or required for authorised works to which an agreement made pursuant to this section relates and for the purpose of securing such land to the transferee the Governor in Council is hereby empowered to grant in fee simple or demise on an appropriate leasehold tenure or set apart and reserve the land to which the certificate relates.

(5) Every such grant or demise shall be made to the transferee without competition but otherwise shall be subject to the *Land Act 1994*."

Clause 98 provides that for the effective and efficient carrying out of the Authority's reconstruction function, the *State Development and Public*

Works Organisation Act 1971, section 140 (Powers in respect of particular works on foreshore or under waters) applies to the Authority as if the references in the section to the Coordinator-General were a reference to the Authority.

The effect of this clause is that this provision of the *State Development and Public Works Organisation Act 1971* applies in the following way:

"**140 Powers in respect of particular works on foreshore or under waters**

(1) A regulation may authorise the *Authority* to undertake works in, on, over, through or across any foreshore or land lying under Queensland waters and may—

(a) authorise the *Authority* to take from the foreshore or from such land sand, stone, gravel and other material and to use the same for the works specified in the regulation; and

(b) direct that the taking and use of the sand, stone, gravel and other material for the works is exempt development under the *Sustainable Planning Act*.

(2) The *Authority* may exercise an authority conferred on the *Authority* pursuant to subsection (1) in accordance with the regulation and subject to this section.

(3) For the *Coastal Protection and Management Act 1995*, section 101, an authorisation under this section to take sand, stone, gravel and other material is taken to be an allocation notice under the Act for the removal of the sand, stone, gravel and other material."

Division 2 Provisions about taking land and entry to land

Clause 99 provides that the Authority may take land for a number of specific purposes. These include to carry out authorised works, to implement a development scheme for a declared project or a reconstruction area, to carry out the Authority's reconstruction function; or to comply with clause 100 (2).

Where the Authority takes land under this clause, the *Acquisition of Land Act 1967* (the *ALA*) applies for taking land by the Authority and paying compensation for the land taken as if:

- the taking were a taking under the ALA by a constructing authority; and
- the constructing authority were the Authority; and
- the reference in the ALA, section 5(1)(c) to the taking of land for a purpose stated in the schedule to that Act were a reference to the taking of land for a purpose mentioned in subclause (1) of this clause; and
- the reference in the ALA, section 9 to the Minister were a reference to the Minister administering this Act.

The power to take land under this section for a purpose (the *primary purpose*) includes power to take at any time land either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose. To clarify, subclause (6) declares that the taking of land under this clause is not a taking of land under the ALA, even though the process for taking the land and paying compensation for the land is the process stated in that Act.

Clause 100 sets out when the Authority or a local government must take land and applies if an owner of acquisition land is given a notice under clause 44(1)(a) (called the *relevant notice*).

The clause provides that the owner of the land must not dispose of the land other than to the entity stated in the relevant notice for the purposes of this clause and if a person contravenes this clause, a maximum penalty of 165 penalty units applies to the contravention.

The clause further sets out that if the owner of the land gives the entity stated in the relevant notice a notice that the owner wishes to sell the land the entity must acquire the land from the owner:

- if the entity is the Authority – in the way provided for under clause 98 (noting that under clause 101, land taken by the Authority may be vested in a government entity, GOC or local government); or
- if the entity is a local government – in the way provided for under the *Acquisition of Land Act 1967*.

If any transaction is entered into in contravention of the clause, the transaction is not invalid, and the rights, powers and remedies of any

person under the transaction are the same as if this section had not been enacted. However, the new owner is taken to have been given a notice under clause 44(1)(a).

This clause does not limit the Authority's power to take the land for a purpose mentioned in clause 98(1)(a) to (c).

This clause would apply in circumstances where, for example, land is acquisition land, but the nature and location of the land may not require immediate acquisition. While the Authority may consider that, for long-term planning, this land should be acquired by the State, in the short-term the land can still be owned by its existing owner. The owner can enjoy the land, however they cannot on-sell the land, unless it is to the Authority. This process allows for a more flexible alternative to usual acquisition processes, as it is possible to defer the compulsory acquisition process to allow an owner of land to remain on their property until a later point in time.

Clause 101 provides for the Authority's power to take public utility easements. The clause states that the Authority's power under clause 99 to take land for a purpose mentioned in clause 99(1), includes the power to create, by registration, a public utility easement over the land under the *Land Title Act 1994*, part 6, division 4.

For the *Land Title Act 1994*, section 89 (Easements for public utility providers), the person for whom the land is to be taken under section 99 is taken to be a public utility provider.

If the document creating the easement states any relevant guidelines made by the Authority have been complied with to the extent they are relevant for the taking of the easement, the easement may be registered under the *Land Title Act 1994* without the document having been signed by the owner of the land to be burdened by the easement. Further, this provision applies despite the *Land Title Act 1994*, section 83(1) (Registration of easement).

Clause 102 states that land taken by the Authority under this division vests, as provided for in the instrument under which it is taken, in the State, the Authority, a government entity, GOC or local government. To clarify, a regulation may divest any land from the Authority and vest the land in the State, a government entity, GOC or local government.

The *State Development and Public Works Organisation Act 1971*, section 128 (3) (Vesting of land taken) applies to land taken by the Authority and vested in the State as if:

- the reference in the subsection to the Coordinator-General were a reference to the Authority;
- the reference in the subsection to the proclamation were a reference to the instrument; and
- the reference in the subsection to the works or purposes were a reference to the purposes.

The effect of this clause is that this provision of the *State Development and Public Works Organisation Act 1971* applies in the following way:

> "Land taken by the *Authority* and vested in the Crown by *the instrument* whereby it is taken shall be and remain Crown land until the same is, according to [words omitted] the purposes for which it is taken, dealt with as prescribed."

Clause 103 provides the Authority with the power to use, lease or dispose of land. The provision states that the Authority may, to give effect to a purpose mentioned in clause 99(1), do any of the following:

- lease, or agree to lease, to any person land taken, or proposed to be taken, under this division;
- sign an agreement with any person to carry out, own, operate and maintain any works or development on land taken, or proposed to be taken, under this division;
- sign an agreement with any person in relation to works or development for land taken, or proposed to be taken, under this division;
- sell land taken, or agree to sell land to be taken, under this division.

Clause 104 applies sections 130, 132 and 133 of the *State Development and Public Works Organisation Act 1971* to this Bill, as if:

the references in the sections to the Coordinator-General were references to the Authority; and

- the reference in section 130(1) of that Act to 'the proclamation' were a reference to 'the instrument'; and
- the references in sections 130 and 133 of that Act to 'this Act' were references to 'the *Queensland Reconstruction Authority Act 2011*'.

These provisions:

- set out processes for the payment of costs of and compensation for taking land by another person or body – for example, in circumstances where acquired land may vest in a local body, that body may be required to pay costs and compensation to the Authority in relation to the taking of the land;
- clarify that if acquired land is not required for the purpose for which it was taken, the Governor in Council may decide how the land is to be dealt with; and
- establish what constitutes proof that land was required by the Authority.

The effect of this clause is that these provisions of the *State Development and Public Works Organisation Act 1971* apply in the following way:

"130 Payment of costs of taking land and compensation

(1) The Governor in Council may, by the *instrument* whereby land is taken by the *Authority* under the *Queensland Reconstruction Authority Act 2011* or subsequently, by notification published in the gazette, specify by whom the costs of taking the land and the compensation payable therefore are to be paid and thereupon such costs and compensation shall be payable to the *Authority* by the person, instrumentality or local body so specified.

(2) An amount payable on account of such costs or compensation that is not paid to the *Authority* within 3 months after it becomes payable or after the amount of such costs or compensation is established (whichever last occurs) may be recovered by the *Authority* in a court of competent jurisdiction as a debt due and payable to the *Authority* by the person, instrumentality or local body by whom it is payable.

132 Disposal of land not required for purpose of acquisition

If land taken by the *Authority* under this Act and held by the *Authority*, or any part of it, is not required for or in connection with the purpose for which it was taken the land not required shall be dealt with in manner directed by the Governor in Council by gazette notice.

133 Proof of requirement of land

A writing purporting to be a certificate of the *Authority* that land therein specified and taken or acquired by the *Authority* under the *Queensland Reconstruction Authority Act 2011* was, at the time of its taking or acquisition, required by the *Authority* or by any person, instrumentality, or

local body for a purpose therein specified shall be admissible in any proceeding as conclusive evidence of the matters contained therein."

Clause 105 sets out the various powers that apply to an authorised person when undertaking authorised works in relation to land. The powers are set out in section 136 (1) (a) to (f) of the *State Development and Public Works Organisation Act 1971*. The powers that will apply to an authorised person, are as follows:

"(a) enter upon any land; or

(b) on any land, make any inspection, investigation, valuation or survey, or take levels; or

(c) dig and bore into any land to ascertain the nature of the soil or substrata thereof, and set out thereon the lines of any works; or

(d) affix to or set up on any land trigonometrical stations, survey pegs, marks or poles and, from time to time, inspect, alter, remove, reinstate and repair the same; or

(e) occupy any land; or

(f) on and from any land occupied by or on behalf of the *Authority*—

(i) construct or place plant, machinery, equipment or goods;

(ii) erect workshops, sheds and other buildings, including buildings for providing housing and other amenities for *authorised persons* and their dependants;

(iii) make roads, cuttings and excavations;

(iv) manufacture and work materials of all kinds;

(v) deposit clay, earth, gravel, sand, stone, timber, wood, and other material;

(vi) take clay, earth, gravel, sand, stone, timber, wood, and other material; or

(vii) demolish, destroy, and remove plant, machinery, equipment, goods, workshops, sheds, buildings or roads."

When exercising a power listed above, section 136(2) to (4) of the *State Development and Public Works Organisation Act 1971* also applies. The effect of these provisions, as applied, are as follows:

"(2) The power to enter land conferred by subsection (1) includes power—

(a) to enter and re-enter the land from time to time; and

(b) to remain upon the land for such time as is necessary to achieve the purpose of the entry; and

(c) to take such assistants, vehicles, materials, equipment and things as are necessary to achieve the purpose of the entry.

(3) Where practicable, not less than 7 days notice in writing shall be given to the occupier or, if there is no occupier, the owner of land of the intention to enter thereon.

(4) Where entry to land is sought to be or has been made pursuant to authority in writing of the *Authority* [words omitted], the *Authority* shall be produced and shown to the owner or occupier of the land upon his or her demand."

Further, section 139(1), (2), (3) and (5) of the *State Development and Public Works Organisation Act 1971* applies to the exercise of a power mentioned in subsection (1). The effect of these provisions, as applied, are as follows:

"(1) A person who claims to have suffered damage resulting from an exercise of power under section 136 *(as applied)* may apply for and be awarded compensation as provided for in this section.

(2) Every application for compensation on account of such damage shall be made and dealt with in the manner prescribed by the *Acquisition of Land Act 1967* in relation to applications for compensation made under that Act and the entitlement to such compensation (including right of appeal in respect thereof) and the assessment of such compensation shall be as prescribed by that Act in so far as the provisions of that Act are appropriate to a claim for compensation made on account of such damage and subject always to the provisions of this section.

(3) Compensation that may be payable on a claim made on account of damage resulting from an exercise of power under section 136 *(as applied)* may include compensation in respect of—

(a) damage of a temporary nature as well as of a permanent nature; or

(b) the taking of clay, earth, gravel, sand, timber, wood, and other material;

but shall not in any case exceed the amount that would have been payable under the *Acquisition of Land Act 1967* had the land in question been taken by the *Authority.*

(5) Where at the time when an application is made for compensation on account of damage resulting from an exercise of power under section 136 (*as applied*) or 89 the works for or in connection with which the power is exercised are not completed a member of the Land Court may, on the application of the *Authority,* order that the matter of the application for compensation be deferred until the works are completed or for a time limited in the order and thereupon no further proceeding shall be had on the application for compensation (save an application hereinafter in this subsection referred to) until the completion of the works or, as the case may be, the expiration of the time so limited unless a member of the Land Court on the application of the applicant for compensation otherwise orders."

The clause also provides that the Authority may by written notice authorise an appropriately qualified person to exercise a power under the *State Development and Public Works Organisation Act 1971*, section 136(1) (a) to (f) as applied under this section. In exercising or attempting to exercise a power mentioned in subsection (1) at a place, the authorised person must take all reasonable steps to ensure the authorised person causes as little inconvenience to any person at the place, and does as little damage, as is practicable in the circumstances.

An *authorised person* is defined in the Schedule to the Bill and means the chief executive officer, an employee of the Authority or another person authorised in writing by the Authority to exercise a power under the *State Development and Public Works Organisation Act 1971*, section 136 (1) (a) to (f) as applied under this Bill.

Further, *appropriately qualified*, for the exercise of a power, means having the qualifications, experience or standing appropriate to exercise the power and includes as an example of standing, a person's classification or level in a department.

However, *land* does not include a part of a place where a person resides. Therefore the power of entry would not apply to residential premises.

Division 3 Dealing with roads

Clause 106 provides that the Authority may perform functions or exercise powers for a road in a reconstruction area that the Authority considers necessary or desirable to perform its other functions. The Authority may, by gazette notice, permanently or temporarily close all or part of a road in a reconstruction area. However, before the closing of the road takes effect, the Authority must publish a notice about the closure in a newspaper circulating in the reconstruction area.

The Authority may stop traffic using a road or part of a road closed under this clause. This power may be exercised whether or not a road is a State-controlled road under the *Transport Infrastructure Act 1994*; and whether or not the *Land Act 1994* applies to a road. This provision will assist in expediting any road closures required to relocate roads from flood-prone areas.

Clause 107 explains the process of vesting of land from former roads or unallocated State land in a reconstruction area. The Authority may, by gazette notice, declare land to be vested with the Authority that comprised either a road that has been permanently closed, or unallocated State land. Following this notification, the vesting must be registered in the land registry on request by the chief executive of the department in which the *Land Act 1994* is administered.

On the registration of the request to vest, the Governor in Council may issue to the Authority a deed of grant under the *Land Act 1994* for the land. However, despite the *Land Act 1994* and the *Land Title Act 1994*, no fee is payable by the Authority in relation to the registration of the vesting or to give effect to it.

Clause 108 applies if the Authority performs a function or exercises a power relating to a road or former road in a reconstruction area. The Authority must give the relevant local government the information the Authority has to allow the local government to comply with its obligation for its map and register of roads under the *Local Government Act 2009*, section 74.

Division 4 Application of other laws

Clause 109 establishes certain finance arrangements in relation to works being undertaken by the Authority.

The clause provides that the *State Development and Public Works Organisation Act 1971* sections 154 to 156 apply in relation to works undertaken by the Authority or chief executive officer as if a reference in section 154 or 155 to the Coordinator-General includes a reference to the Authority or chief executive officer; and as if the reference in section 155 to 'or the Coordinator-General's delegate' were omitted. Sections 154 to 156 are found in Part 7 (Financial provisions) of the *State Development and Public Works Organisation Act 1971*.

The effect of these provisions, as applied, are as follows::

"**154 Expenses of works**

(1) When works are undertaken by the *Authority or chief executive officer* or a project board—

(a) for the benefit of a local body or a department of the Government;

(b) for the benefit of a particular person;

(c) upon the default of or on behalf of a local body;

a regulation may direct the local body or department or person concerned to pay to the Treasurer, at such time or times and on such terms and conditions as specified in the regulation the whole or a proportion, specified in the regulation, of the costs and expenses incurred by or on behalf of the *Authority or chief executive officer* or project board in connection with the works.

(2) Where there is more than 1 local body or person concerned the regulation may apportion the costs and expenses between or among them and may require payment of each local body or person accordingly.

(3) Moneys required pursuant to this section to be paid and unpaid as required may be recovered by the Treasurer—

(a) by action in any court of competent jurisdiction as a debt due and payable to the Treasurer; or

(b) under the *Statutory Bodies Financial Arrangements Act 1982*, sections 24 to 28, as if a reference in the sections to—

(i) the recovery amounts were a reference to moneys to be paid and unpaid under this section; and

(ii) a statutory body were a reference to a local body.

155 Expenditure generally on work by Coordinator-General

Where for work of a certain nature, an Act provides for expenditure from any fund or Parliament has appropriated money, moneys may be expended in respect of work of that nature undertaken by the *Authority or chief executive officer* [words omitted].

156 Subsidies or Treasury loans for works

The Treasurer may, with the approval of the Governor in Council and subject to all necessary appropriations by Parliament, expend moneys in respect of works referred to in section 154(1), whether by way of grant of subsidy or of Treasury loan, as if such works were being undertaken by a local government."

Clause 110 clarifies that the *Sustainable Planning Act 2009* does not bind the Authority or chief executive officer in relation to the Authority's or chief executive's functions or powers under this Bill. This clause applies despite section 14(1) of the *Sustainable Planning Act 2009*, which specifically states that it binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

This clause is intended to clarify the relationship between the Bill and the *Sustainable Planning Act 2009*. One of the purposes of this clause is to give the Authority and the chief executive officer statutory immunity from the *Sustainable Planning Act 2009*'s approval requirements when the Authority and chief executive officer exercise their powers and perform their functions under this Bill. This clause has the effect that the Authority and the chief executive officer are able to undertake development without having to obtain a development permit or compliance permit where the development is undertaken under a power or a function of the Authority or chief executive officer under the Bill.

Part 8 Direction to take action about local planning instruments

This part of the Bill gives the Minister the power to direct local governments to take an action in relation to a local planning instrument, similar to the powers of the planning Minister under the *Sustainable Planning Act 2009*, chapter 3, part 6.

Clause 111 provides that before a power is exercised under clause 112, the Minister must give notice of the proposed exercise of the power to the local government to be affected by the exercise of the power. However, notice need not be given if the power is proposed to be exercised at the local government's request.

Such a notice must state the reasons for the proposed exercise of the power and a period within which the local government may make submissions to the Minister about the exercise of the power. If submissions are made, the Minister must consider any submissions and advise the local government whether they have decided to exercise the power or not. If the Minister decides to exercise the power, they must advise the local government of the reasons for deciding to exercise the power.

Clause 112 applies if the Minister is satisfied it is necessary to give a direction to a local government to ensure the main purpose of this Bill is achieved. The Minister may direct the local government to take an action in relation to: a local planning instrument; a proposed local planning instrument; or a proposed amendment of a local planning instrument. An example of such action includes an amendment to a planning scheme.

A direction given by the Minister may be as general or specific as the Minister considers appropriate and must state the reasonable period within which the local government must comply with the direction.

For this clause, the terms *planning scheme*, *planning scheme policy* and a *temporary local planning instrument* are defined in the *Sustainable Planning Act 2009*, sections 79, 108 and 101 respectively. These terms are defined in that Act as follows:

- A *planning scheme* is an instrument that is made by a local government under division 2 and part 5 of the *Sustainable Planning Act 2009* and advances the purpose of the *Sustainable Planning Act*

2009 by providing an integrated planning policy for the local government's planning scheme area.

- A *planning scheme policy* is an instrument that is made by a local government under division 2 and part 5 of the *Sustainable Planning Act 2009*, supports the local dimension of a planning scheme and supports local government actions under the *Sustainable Planning Act 2009* for IDAS and for making or amending its planning scheme.
- A *temporary local planning instrument* is an instrument that is: (a) made by a local government under division 2 and part 5 of the *Sustainable Planning Act 2009*; and (b) advances the purpose of this Act by protecting a planning scheme area from adverse impacts.

Clause 113 provides that if the local government does not comply with the Minister's direction under clause 112 within the reasonable period stated in the notice, the Minister may take the action the Minister directed the local government to take. Any action taken by the Minister is taken to have been done by the local government and has the same effect as it would have if the local government had done it. Further, an expense reasonably incurred by the Minister in taking an action under this clause may be recovered from the local government as a debt owing to the State.

Clause 114 states that if the Minister gives a local government a direction under clause 112, the Minister must ensure a copy of the direction is given to the chief executive of the department that administers the *Sustainable Planning Act 2009*.

Part 9 General offence provisions and legal proceedings

Division 1 Offences

This division sets out a number of penalties in relation to the administration of this Bill.

Given the importance of the Authority's functions and powers and the significant public interest in ensuring that board members, officers of the Authority and other persons involved with the administration of this Bill

act with the highest level of personal integrity, it is considered necessary to include such provisions in the Bill. The relevant penalties applying to such breaches reflect the seriousness of such conduct.

Additionally, there are specific penalties which apply to persons who mislead the Authority, or obstruct an officer of the Authority. Again, given the public interest in ensuring the Authority carries out its functions and powers in an appropriate and expeditious manner, it is crucial that people do not interfere with the Authority or otherwise hinder its activities.

Clause 115 stipulates that a board member or an officer of the Authority must at all times act honestly in the exercise of the person's powers and the performance of the person's functions. If a person contravenes this section a maximum penalty of 200 penalty units applies.

Clause 116 sets out that a person must not disclose information obtained in the administration of this Act, or another Act giving functions to the Authority, unless the disclosure is made with the agreement of the person from whom the information was obtained; for the administration of this Act or another Act giving functions to the Authority; in legal proceedings; or under the *Crime and Misconduct Act 2001* or the *Ombudsman Act 2001*; or with another lawful excuse. If a person contravenes this section a maximum penalty of 100 penalty units applies.

Clause 117 establishes a penalty for providing false and misleading information. The clause provides that a person must not, for the purposes of this Bill, state anything the person knows is false or misleading in a material particular. Contravention of this clause attracts a maximum penalty of 200 penalty units. It is enough for a complaint against a person for an offence against this clause to state that the statement made was false or misleading to the person's knowledge.

Clause 118 provides that a person must not, for the purposes of this Act, give the Authority a document containing information the person knows is false, misleading or incomplete in a material particular. Again, a maximum penalty of 200 penalty units applies to a contravention of this section. Further, it is enough for a complaint against a person for an offence against this clause to state that the document was false, misleading or incomplete to the person's knowledge.

Clause 119 states that a person must not obstruct an authorised person who is exercising a power under this Act, unless the person has a reasonable excuse. If a person contravenes this section, a maximum penalty of 100

penalty units will apply. To clarify, the term '*obstruct*' includes hinder and attempt to obstruct or hinder.

Division 2 Legal proceedings

Subdivision 1 Evidence

Clause 120 provides that this division applies to a proceeding under this Bill.

Clause 121 states that the following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- the appointment of—
    - the chairperson of the Authority; or
    - an authorised person;
- the authority of a person to do anything under this Act.

Clause 122 sets out that for a legal proceeding, a signature purporting to be the signature of the chairperson of the Authority or the chief executive officer is evidence of the signature it purports to be.

Clause 123 states that in a proceeding, a certificate purporting to be that of the chief executive officer stating any of the following matters is evidence of the matter—

- a stated document is an appointment or notice made or given under this Act;
- a stated document is a document given to the Authority or chief executive officer;
- a stated document is a copy of a document mentioned in two sub-paragraphs above.

Further, a statement in a complaint for an offence against this Act that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.

Subdivision 2 Offence proceedings

Clause 124 provides that any offence against this Act is a summary offence.

Clause 125 clarifies that a summary proceeding under the *Justices Act 1886* for a summary offence must start within whichever is the longer of the following:

- 1 year after the commission of the offence;
- 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

Part 10 Miscellaneous

Division 1 Duty to cooperate and requesting information

Clause 126 provides that particular entities are to cooperate with the Authority. This clause enables certain information to be obtained in order that the Authority can efficiently carry out its functions.

The entities to which this clause applies (as contained in section 13 (1) of the *State Development and Public Works Organisation 1971*), includes:

- a local body and, where it is a corporation, of every person who comprises it;
- the chief executive of a department of the Government;
- a corporation constituted for the purposes of any Act or that, being incorporated by the law of the State, is an instrumentality or agency of the Crown, and of every person who comprises it;
- the holder of any office provided for by any Act; and
- a person in the employ of a local body, or in the employ of such corporation or holder for the purposes of the material Act, or employed in such a department.

The entities listed above are also taken to be subject to a duty to cooperate with the Authority in the performance of the Authority's functions and the exercise of its powers under this Bill.

Section 13 (2) of the *State Development and Public Works Organisation 1971* with all necessary changes, also applies to the entity as follows;

"Without limiting the duty imposed on an entity, the entity:

(a) shall consult with and make his or her services available to the *Authority* in connection with works, whether constructed, in course of construction, or to be constructed and in connection with any other matter that concerns the *Authority*; and

(b) shall confer, as requested by the *Authority,* on any matter that concerns development, planning, or environmental effects within a *reconstruction area* and on any other matter that concerns the *Authority*; and

(c) shall, as required by the *Authority,* furnish to the *Authority* accurate information in the possession of or available to that person in the capacity whereby he or she is subject to this section concerning such matters as in the *Authority's* opinion would assist the *Authority* in the discharge of its functions or duties."

The clause also specifies that a duty imposed under this section applies subject to the *State Development and Public Works Organisation 1971*, section 13 (3). Section 13 (3) applies as follows:

"This section shall be construed to apply:

(a) save where the Minister directs to the contrary in a particular case, proof whereof shall lie upon the person who alleges it;

(b) in relation to the furnishing of information, subject to the provisions of any Act that expressly require a person employed under that Act to preserve and aid in preserving secrecy with regard to all matters that may come to the person's knowledge in the person's official capacity."

Clause 127 provides that the Authority may, by notice, ask a relevant entity or other person to give the Authority information, other than personal information, in the entity's or person's possession or control that the Authority reasonably requires for the effective and efficient carrying out of the Authority's functions. If the Authority asks an entity of a person for information under this section, the entity or person must comply with the

request. If a person fails to comply, a maximum penalty of 100 penalty units applies.

In this clause, information is not taken to be in the person's control merely because of an agreement between the person (the *first person*) and someone else (the *second person*) under which the second person must give the information to the first person.

To clarify, this clause does not limit a person's duty to cooperate contained in clause 126.

In this clause, *personal information* means information or an opinion, including information or an opinion forming part of a database, whether true or not, about an individual whose identify is apparent, or can reasonably be ascertained from the information or opinion.

This power will enable the Authority to achieve its main functions. For example, the Authority has the function of collecting and collating information about community infrastructure and other property. Such information will be necessary to decide priorities for community infrastructure and community services needed for the rebuilding and recovery of affected communities.

Clause 128 provides that the Authority may ask a relevant person for a prescribed decision to give the Authority information it reasonably requires to decide whether to give a progression notice, a notice to decide or a step-in notice for the decision, to make an assessment and a decision about the prescribed decision under this Act or to undertake a prescribed process. If asked, the relevant person must comply with a request.

This clause does not limit a person's duty to cooperate contained in clause 126.

In this clause a *relevant person*, for a prescribed decision, means the applicant for the decision or another entity the Authority reasonably considers has information that may help it act in deciding whether to give a progression notice, a notice to decide or a step-in notice for the decision or to make an assessment and a decision about the prescribed decision under this Bill.

Clause 129 provides protection to a person who gives information to the Authority.

The clause stipulates that if a person, acting honestly, gives information or a record to the chief executive officer or the Authority in compliance with this division or otherwise under this Bill, then the person is not liable

civilly, criminally or under an administrative process for giving the information. Additionally, the clause provides that a person cannot be held to have breached any code of professional etiquette or ethics, or departed from accepted standards of professional conduct merely because the person gives the information to the chief executive officer.

Clause 130 states that the power of the chief executive to request information does not limit a power or obligation under another Act or law to give information. Further, this division applies despite any other law that would otherwise prohibit or restrict the giving of information.

Division 2 Dealing with land held by Authority on expiry of Act

Clause 131 establishes what happens to land held by the Authority on the expiry of the Bill.

On the day the Bill expires, which is 2 years after it commences, land held by the Authority is taken to have been divested from the Authority and vested in the Coordinator-General.

Division 3 Other miscellaneous provisions

Clause 132 states that the chief executive officer may delegate his or her functions under this Act to an appropriately qualified senior executive under the *Public Service Act 2008*. '*Appropriately qualified'* includes having qualifications, experience or standing appropriate for the function and '*functions*' includes powers.

Clause 133 states that an official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act. If this provision prevents a civil liability attaching to an official, the liability attaches instead to the State. In this clause, '*official'* means a member of the board, an authorised person or another officer of the Authority when performing a function or exercising a power under this Bill.

Clause 134 establishes Ministerial access to information held by the Authority. The clause sets out that the Minister may by notice require the Authority to give the Minister stated information or stated documents, or

copies of documents, in the Authority's possession. If such a request is made, the Authority must comply with the requirement.

Clause 135 states that the Authority may make guidelines (each an *Authority guideline*), consistent with this Act, to provide guidance to persons about matters relating to the operation of the Act or the Authority. An Authority guideline may be amended or replaced by a later guideline made under this section. The Authority must give a copy of an Authority guideline to a person on request and keep a copy of each guideline on the Authority's website.

Clause 136 applies if a provision of this Bill applies to another law, or a provision of another law, (the *applied law*) for a purpose. The applied law and any definition relevant to it apply with necessary changes. Subclause 3 clarifies that the previous subclause is not limited merely because a provision states how the applied law is to apply.

Clause 137 provides that the Authority may approve forms for use under this Bill.

Clause 138 states that the Governor in Council may make regulations under this Bill. A regulation may impose a penalty of no more than 20 penalty units for contravention of a regulation.

Part 11 Expiry of Act

Clause 139 provides that this Bill expires 2 years after the day it commences.

Part 12 Amendment of Acts

Division 1 Amendment of this Act

Clause 140 provides that this division amends this Bill.

Clause 141 amends the long title of this Bill to omit the words 'and to amend' onwards, to remove reference to the other Acts amended through this Bill.

Division 2 Amendment of the *Building Act 1975*

Clause 142 provides that this division amends the Building Act 1975 (BA).

Clause 143 amends section 231B (what is a regulated pool). This amendment enlarges the category of pools that are excluded from the definition of 'regulated pool'. The excluded category now extends to pools on common property at a class 3 building (for example a hotel or motel) where a pool safety management plan is in place for the pool. Also, the exclusion extends to pools used in association with a class 3 building or in common ownership with it, provided a pool safety management plan is in place.

Clause 144 replaces section 245J (Application of Div 6). The clause broadens the category of property owners who are eligible to apply for a pool safety management plan under Division 6, to include the owner of a class 3 building (for example a hotel or motel) with a swimming pool on its common property, or on land used in association with or in common ownership with the building.

Clause 145 amends section 245M (Application for approval). This amendment provides an example of a safety measure that an eligible swimming pool owner could choose to include in a pool safety management plan for which approval is sought. The example of an on-site lifeguard illustrates the level of protection deemed appropriate to provide for the safety of young children in and around a pool.

Clause 146 inserts a new chapter 11, part 11 as outlined below:

'Part 11 Transitional and validation provisions for Queensland Reconstruction Authority Act 2011

Section 301 inserts definitions required for the new part.

pnSection 302 provides for a modified application of ch 8 provisions. This transitional provision facilitates a six month exemption period permitting the lease of a property with a non shared pool without a pool safety certificate.

The six month exemption period commences on 8 January 2011 and ends on 8 July 2011.

Outside the exemption period, one of the triggers for the 'pool safety standard application day' for a non shared pool is the day the owner enters into a new accommodation agreement, and it is an offence for the owner to enter an accommodation agreement without a pool safety certificate.

This clause amends the definition of pool safety standard application day so that the trigger for compliance with the pool safety standard will not occur for the affected pool until the first sale or accommodation agreement after the exemption period or 1 December 2015, whichever is sooner.

The offence of entering into an accommodation agreement involving a non shared pool without a pool safety certificate, will not apply during the exemption period.

Outside the exemption period, real estate agents who facilitate such agreements may be subject to disciplinary action. If they do so during the exemption period, it cannot be used as grounds for disciplinary action against them.

Section 303 inserts an offence about entering into an accommodation agreement. This amendment applies to the owner of regulated premises with a non shared pool during the six month exemption period from 8 January 2011.

This amendment provides that it is an offence for the owner of premises with a non shared pool to enter into an accommodation agreement during the exemption period, namely six months from 8 January 2011, without providing the person who will be the occupier of the premises with a notice in the approved form.

This provision allows for the approval of a form of notice that alerts the occupier to the fact that there is no pool safety certificate in place for the pool.

The requirement to give a notice does not apply where there is already a pool safety certificate in place for the relevant pool.

Section 304 provides an additional role of relevant building surveying technician.

This provision makes it clear that a 'relevant building surveying technician' may, while employed by a local government, perform a relevant certifying function. The expressions 'relevant building surveying technician' and 'relevant certifying function' are defined in section 301.

Section 305 provides for the validation of relevant building surveying technician function. This amendment validates a certifying function carried out by building surveying technicians employed by local governments, between 1 January 2010 and the day the amendment commences. The relevant function is a building certifying function for a building or structure having a rise of no more that 2 storeys and a total floor area of no more than 500 square metres.

Clause 147 provides for the amendment of schedule 2 (Dictionary). This is a consequential amendment, required to insert new definitions required as a result of proposed amendments of the Act.

Division 3 Amendment of the *Disaster Management Act 2003*

Clause 148 provides that this Division amends the *Disaster Management Act 2003*.

Clause 149 inserts a new 20B in the *Disaster Management Act 2003.* This clause applies if there is a disaster situation. Despite the *Sustainable Planning Act 2009*, the chairperson of the State group may give a written notice to a relevant local government for the disaster situation stating that chapter 6, part 5, division 3, subdivision 4 of the *Sustainable Planning Act 2009* (called the "deemed approval provisions" do not apply to a development application (an *affected application*) made to the local government but not decided before the day the local government receives the notice.

The chairperson may give the notice only if satisfied the giving of the notice is appropriate having regard to the effect on the relevant local government of the disaster for which the disaster situation has been declared.

Under subclause (4), the notice must state a day (called the "stated day"), being not more than 20 business days after the disaster situation ends, the notice ceases to have effect.

The effect of giving a notice under this clause is that the deemed approval provisions do not apply to an affected provision from the day the local government receives the notice to the end of the stated day. The applicant is prevented from giving a deemed approval notice under the *Sustainable Planning Act 2009* until after the stated day. Any deemed approval notice given is taken to be of no effect.

The purpose of this clause is recognise that local governments and other assessment managers may be required to divert resources from its planning functions during disaster situations, and for a period after the disaster situation. During this time, applicants will be prevented from giving a deemed approval notice under the *Sustainable Planning Act 2009.*

Clause 150 amends section 67 (Extending disaster situation) as follows: '14 days'— *omit, insert*— '28 days'.

Clause 151 amends section 72 (Extending disaster situation) as follows: Section 72(3), '14 days'—*omit, insert*—'28 days'.

The recent flood events revealed a technical error in relation to the extension of a disaster situation. This error has arisen because amendments to the *Disaster Management Act 2003* in 2010 changed the period of an initial disaster declaration from seven to 14 days. However, a corresponding amendment to the period of the disaster extension, from 14 to 28 days from the initial declaration, was not made at that time; thus the relevant subsections relating to the extension of the disaster declaration have been rendered ineffective.

Accordingly, the Bill will also amend the *Disaster Management Act 2003* to extend the period of a disaster extension from 14 days to 28 days to ensure the provisions of the Act can operate to proper effect in any upcoming disaster event.

Division 4 Amendment of the *Integrity Act 2009*

Clause 152 provides that this division amends the *Integrity Act 2009*.

Clause 153 amends Schedule 1 (Statutory office holders for section 72C) of the *Integrity Act 2009* to ensure that chief executive officer of the

Queensland Reconstruction Authority is included as a statutory office holder for the purposes of section 72C of the *Integrity Act 2009*. As a statutory office holder, the chief executive officer must, within 1 month, give the integrity commissioner and the relevant Minister a statement about his or her interests.

Division 5 Amendment of the *Land Valuation Act 2010*.

Clause 154 provides that this division amends the *Land Valuation Act 2010.*

Clause 155 amends Section 76 (Unprotected valuation roll information to be available for inspection) of the *Land Valuation Act 2010* which requires that the valuation roll be made available at least 3 months before the 30 June to state that the valuation roll can be made available within the 3 month period but no later than the 30 June 2011; and it allows these provisions to expire on 30 June 2011.

Clause 156 amends Section 79 of the *Land Valuation* Act 2010 which requires that a valuation notice be given to a landowner no later than 31 March to allow the notice to be given after 31 March but before 30 June 2011; and it allows these provisions to expire on 30 June 2011.

Clause 157 amends Section 203 of the *Land Valuation Act 2010* which requires that where the Valuer-General has prepared a valuation roll, a copy of that roll must be given to the State Revenue Commissioner and the relevant local governments at least 3 months before the valuation becomes effective. This will allow the valuation roll to be given to local governments within the 3 months prior to 30 June 2011; and it allows these provisions to expire on 30 June 2011.

Division 6 Amendment of *Public Service Act 2008*

Clause 158 provides that this division amends the *Public Service Act 2008.*

Clause 159 states that Schedule 1 (Public service offices and their heads) is amended by providing that the Queensland Reconstruction Authority is a

public service office and the chief executive officer is the head of that public service office. The declaration of the Authority as a public service office will ensure that relevant directives, guidelines and policies for public service employees within the Authority will apply.

Division 7 Amendment of *State Development and Public Works Organisation Act 1971*

Clause 160 provides that this division amends the *State Development and Public Works Organisation Act 1971*. The division will only apply on and after the day this Bill expires.

As the Queensland Reconstruction Authority Bill 2011 includes a two year sunset clause, it is necessary to include transitional provisions which will transfer relevant powers and responsibilities to the Coordinator-General following cessation of the Bill. Given some of the powers and functions of the Authority are similar to those exercised by the Coordinator-General it is considered transferring responsibility to that office is appropriate.

Clause 161 inserts a new Part 9, Division 4 into the *State Development and Public Works Organisation Act 1971*. These new provisions ensure that, after the Bill expires:

- the Coordinator-General must give written notice to the registrar of titles of any land which vests in the Coordinator-General under clause 130;
- the owner of acquisition land must dispose of land only to the Coordinator-General;
- a transitional regulation may be made to make provision for transitional issues.

Schedule Dictionary

The Schedule provides a dictionary which defines key terms used in the Bill.