Sustainable Planning and Other Legislation Amendment Bill 2012

Explanatory Notes

Short title

The short title of the Bill is the *Sustainable Planning and Other Legislation Amendment Bill 2012.*

Policy objectives and the reasons for them

The Queensland Government has committed to an effective and efficient planning and development system, responding to local government and industry feedback that a number of concepts and processes within the *Sustainable Planning Act 2009* are not functioning as effectively as intended.

The policy objective of the Bill is to make certain improvements to Queensland's planning and development system, as informed by users of the system.

The Bill seeks to:

- improve the coordination and responsiveness of state government in dealing with particular development applications (proposing development within or partially within state jurisdiction);
- remove ineffective master planning and structure planning arrangements;
- reduce regulatory 'red tape' for development applications involving a state resource;
- provide some flexibility in the requirements for supporting information accompanying a development application;
- provide that certain provisions within the Queensland Planning Provisions also apply to local government planning schemes made under the *Integrated Planning Act 1997* (repealed);

- give the Planning and Environment Court general discretion in relation to costs; and
- introduce an alternative dispute resolution process in the Planning and Environment Court for minor disputes.

Achievement of policy objectives

Queensland's planning and development assessment system is intended to allow the community to achieve various economic, social, and environmental objectives by regulating land use and development. However the system is not functioning as effectively and efficiently as it should or could.

Consequently, the state government has committed to reforming Queensland's planning and development system to ensure it is more streamlined and simplified. Seven proposals are included in the Bill.

Improve state government coordination and responsiveness in dealing with particular development applications proposing development within or partially within state jurisdiction

Under the *Sustainable Planning Act 2009*, state agencies may have a role as a concurrence agency or as the assessment manager for a development application, if there are legal requirements (jurisdiction) for a state agency to assess certain aspects of the development. This jurisdiction is prescribed under the *Sustainable Planning Regulation 2009.*

As a concurrence agency, the state provides a response to the application about the approval, conditioning and/or rejection of the application on grounds within its jurisdiction, which must be followed by the assessment manager. Currently, there are multiple state agencies with jurisdiction as concurrence agencies or advice agencies. It is possible that one development application may trigger multiple jurisdictions requiring responses from a number of state agencies.

As an assessment manager, the state decides the application, including the imposition of conditions on the development. Currently, there are a number of state agencies with jurisdiction as assessment managers for particular types of development applications.

The Bill seeks to improve the coordination and responsiveness of state government in dealing with these particular development applications (excluding building matters) by enabling the chief executive administering the *Sustainable Planning Act 2009* to be the single state assessment

manager and referral agency, where relevant. The Bill provides how the chief executive deals with these particular development applications.

The Bill provides that the chief executive (with responsibility for administering the *Sustainable Planning Act 2009*) may have regard, and give the appropriate weight, to the matters relevant to the application in responding to (as a referral agency) or deciding (as the assessment manager) the application. A subsequent amendment to the *Sustainable Planning Regulation 2009* will be required to prescribe the matters relevant to the assessment of particular development.

As the single state assessment manager and referral agency, the chief executive will consider the development application from a state perspective, resolving any conflicts between codes and policies, and ensuring conditions on an approval are reasonable and relevant to the proposal.

The Bill provides for the single state assessment and referral agency provisions to commence at a future date, allowing time to confirm administrative/operational matters and consider possible impacts of various other reforms to the planning and development system.

It is intended that, once operational, the single state assessment and referral agency will provide a 'central' point of state referral and response, taking on the role of the referral agency or the assessment manager, depending on the state's jurisdiction for a particular development application (excluding building matters).

The proposed single state assessment manager and referral agency will not receive development applications relating to building matters or replace the responsibilities of the local government either as assessment manager or referral agency for relevant development applications.

Remove master planning and structure planning arrangements

The existing master planning and structure planning arrangements in the *Sustainable Planning Act 2009* are inefficient and have not added value to planning partnership arrangements. Consequently, the Bill removes these provisions, but preserves the use and development rights established by existing structure plans and master plans through transitional provisions.

These arrangements can be addressed in other ways without further legislative amendments, including:

- ensuring strategic guidance at the regional level through clearer and more focussed regional planning;

- enabling local governments to carry out effective integrated strategic land use and infrastructure planning in their planning schemes using reformed and streamlined scheme making processes; and
- a partnership approach with industry in development assessment in key growth areas, including for example through the effective use of 'section 242' preliminary approvals under the *Sustainable Planning Act 2009*.

The transitional provisions outline a strategy that:

- requires a local government to amend their local planning instrument within 3 years to incorporate the structure plan;
- removes master plan provisions but preserves existing applications and approvals;
- allows the ability for section 242 preliminary approval applications;
- provides that applications inconsistent with the structure plan will require notification and the regulatory provisions of *Sustainable Planning Act 2009* apply. Applications consistent with the structure plan and/or master plan will transition the jurisdictions of the declared master planned area; and
- consequential amendments will be required to a range of other legislation to reflect the removal of chapter 4, *Sustainable Planning Act 2009*.

Remove regulatory 'red tape' for development applications involving state resources

Currently, where a development application involves a state resource, evidence of an allocation or an entitlement to the resource is required when the development application is lodged to enable the application to be considered properly made and assessed. Therefore, without a resource allocation, the development application is determined to have been not properly made and the application cannot proceed until the allocation is obtained, potentially delaying the development's approval process.

The Bill streamlines the development application process for applications involving a state resource by decoupling the development application process under the *Sustainable Planning Act 2009* from the allocation or entitlement process under other legislation. This will allow the application to be assessed without evidence of an allocation or entitlement to the state resource, and enable the applicant to apply for a state resource allocation or

entitlement prior to, concurrent with, or following the development application and assessment process.

Provide some flexibility in the requirements for supporting information accompanying a development application

For a development application to be considered properly made it must be accompanied by all the information required under the mandatory requirements of the Integrated Development Assessment System development application forms. This provision was introduced in the *Sustainable Planning Act 2009* to address the low quality of development applications being made at the time. However, due to improved practices and the greater clarity of what is required for adequate applications, the provisions are now often a barrier to the efficiency of the development assessment process.

The mandatory requirements of a development application (for example, consent of the land owner) must still be included in every application. However, the mandatory *supporting* information may not always add value to the assessment of every development application and may therefore be unnecessary for some applications.

The Bill provides the assessment manager the discretion to accept those development applications which have sufficient information for assessment as being properly made, which will streamline the development application process for these applications.

Provide a maximum level of assessment for certain low risk operational works

The Bill provides powers to ensure that certain provisions within the Queensland Planning Provisions (QPP) also apply to local government planning schemes made under the *Integrated Planning Act 1997* (repealed), as well as the *Sustainable Planning Act 2009*. This will allow for certain maximum limits of assessment and codes under the QPP to apply to all local governments.

The level of assessment required for development applications involving low-risk operational works is unnecessarily high, creating an unnecessary burden for local governments and development applicants.

After consultation with the development industry and local governments, it was identified that greater use of compliance assessment would simplify processes for development applications for certain low risk operational

works e.g. car parking, sediment and erosion control, electrical drawings/internal electrical reticulation, and landscaping.

It is intended that the QPP will provide a maximum (highest) level of assessment for certain low risk operational works which will apply in all local government areas – for example, compliance assessment is the highest assessment level for certain low risk operational works. Local governments will still have the flexibility to adopt a lower level of assessment, such as self-assessable or exempt, in their planning instruments.

Give the Planning and Environment Court general discretion in relation to costs

At present the Planning and Environment Court is essentially a cost free jurisdiction in that ordinarily each party pays their own costs except in certain specific circumstances. The one most often relied on is where the court considers a party has been frivolous or vexatious. This term has been the subject of many decisions of the Planning and Environment Court and has been interpreted in such a way it is now rare for cost orders to be made under this exception even where the opponent is a commercial competitor.

The usual rule in court proceedings is that the losing party pays the winning party's costs. The departure from this norm has led to a number of unsatisfactory outcomes including:

- applicants being reticent to challenge conditions placed on development because the cost of litigating outweighs the benefit of a successful outcome
- commercial competitors fighting in court for the purposes of delay – knowing that even if the case is unsuccessful they will not be penalised in costs yet will have achieved their desired outcome
- developments approved by the council being litigated by third parties on weak town planning grounds – even though these grounds might not fall into the category of 'frivolous or vexatious'.

In order to avoid these anomalies the Bill introduces the concept that costs are to follow the event but always subject to the discretion of the Planning and Environment Court. This is in line with the rules under the Uniform Civil Procedure Rules which apply in the Supreme and District courts. In addition, the Planning and Environment Court Rules may provide for how the Court exercises the discretion.

In support of this concept, the Bill also:

- encourages parties to avail themselves of early mediation by providing that proceedings resolved at or soon after mediation may be on the basis each party bears their own costs;
- provides for minor disputes to be heard and determined by the Alternative Dispute Resolution registrar on the basis each party bears their own costs; and
- provides that a party (usually a local government) enforcing development approvals or responding to development offences, such as unlawful uses, can recover investigation costs as determined by the Planning and Environment Court as enforcement proceedings always entail significant investigation prior to commencing proceedings.

In exercising its discretion, the Planning and Environment Court will be able to take into account factors other than the mere fact of success, because in planning cases there are many and varied ways in which a successful outcome can occur.

Alternative dispute resolution processes – to allow the Planning and Environment Court the discretion to direct the Alternative Dispute Resolution Registrar to hear and decide minor disputes and routine procedural applications

There are some development matters which are relatively simple, straight forward disputes which could be resolved quickly, cheaply and effectively without the burden of an expensive trial. Also, there are routine procedural applications which need to be dealt with on an ongoing basis.

Consequently, the Bill provides that the Chief Judge of the District Court has the discretion to direct that certain powers of the Court be exercised by the Alternative Dispute Resolution registrar. In addition, the Court may direct that specific matters may be adjudicated and decided by the Alternative Dispute Resolution registrar on the basis each party pay their own costs. It is intended that this will add to the efficiency of the Planning and Environment Court, improve access to justice for the public, allow disputes to be resolved sooner without costs and reduce judicial time in determining relatively minor matters dealing with routine applications.

Alternative ways of achieving policy objectives

The identified improvements in the planning and development system can only be addressed by providing powers or removing requirements within

the *Sustainable Planning Act 2009* and so can only be addressed by legislative amendment.

While it is possible to make certain statutory planning instruments or statutory guidelines under the *Sustainable Planning Act 2009,* the policy objectives of the Bill could not be lawfully or effectively achieved in this way. Any statutory instruments or guidelines cannot contradict the provisions or diverge from the purposes under the Act.

It is possible that for certain proposals in the Bill, a non-regulatory policy position could be taken whereby certain provisions in the legislation are *not* exercised. For example, to enter into a planning partnership, a local government could potentially exercise contractual arrangements under other Acts rather than master planning arrangements under the *Sustainable Planning Act 2009.* In the cases where this non-regulatory policy approach is possible, this option is not supported as it means that the planning and development system operates inconsistent with the legislative framework, creating confusion for all levels of government, industry and communities.

Estimated cost for government implementation

The Bill provides for the single state assessment and referral agency provisions to commence by proclamation at a future date. This delayed commencement is required to confirm various administrative and operational matters, also considering possible impacts of various other reforms to the planning and development system. It is expected that further legislative amendments, for example to the *Sustainable Planning Regulation 2009*, will be required to enable the new arrangements to become operational.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992.* Any issues identified have been addressed through the drafting of the Bill and is considered to have sufficient regard to rights and liberties of individuals and the institution of Parliament. Accordingly, this Bill is consistent with fundamental legislative principles.

Consultation

A series of planning reform forums were held by the state government from May to July 2012 with local government and industry representatives to identify main issues and concerns in relation to current arrangements under the *Sustainable Planning Act 2009* for plan-making, development assessment, referrals and appeals. These included representatives from the property and construction sector, environmental groups and peak professional bodies for planning and law.

A range of regulatory and cultural changes were identified by stakeholders at the forums, which informed the proposals presented in this Bill. Stakeholders supported the development of a planning and development reform program, particularly proposals for a central 'planning' agency within the state government.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state.

No other jurisdictions have a comparable planning and development system. However, other jurisdictions also review and reform their planning and development systems over time to ensure they remain effective, efficient and responsive to local government, industry and community needs.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 establishes the short title of the Bill as *Sustainable Planning and Other Legislation Amendment Bill 2012.*

Commencement

Clause 2 provides that the following provisions of the Bill commence on a day to be fixed by proclamation - sections 35, 42(1), 43(1), 44(1), 59, 61, 63, 67, 111 to 118, and 123(2) and (4); and section 122 (Transitional provisions for *Sustainable Planning and Other Legislation Amendment Bill 2012*), to the extent it inserts new sections 945 and 946 in the *Sustainable Planning Act 2009*.

Section 35 provides for the insertion of new chapter 6, part 1, division 4, subdivision 2A (Chief executive assessing particular applications as assessment manager or referral agency). As discussed under the heading 'Achievement of policy objectives', commencement by proclamation allows the single state assessment and referral agency provisions to commence at a future date, allowing time to confirm administrative/operational matters and consider possible impacts of various other reforms to the planning and development system.

Sections 42(1), 43(1), 44(1), 63, 111 to 118, 123(2) and (4), and section 122 to the extent it inserts new section 945 in the *Sustainable Planning Act 2009,* are also to commence by proclamation, given their dependency on the commencement of section 35.

Also to commence by proclamation are provisions under sections 59 and 61, and section 122 to the extent it inserts section 946 in the *Sustainable Planning Act 2009,* dealing with Planning and Environment Court costs under the *Sustainable Planning Act 2009*. The delayed commencement will enable the relevant Rules of Court to be made prior to commencement, establishing rules for how the court may exercise its discretion with regard to costs. Section 67, inserting new chapter 7 part 1 division 12A (ADR registrar) will also commence by proclamation, given its operational relationship with the amended provisions for court costs under sections 59 and 61.

Part 2 Amendment of Airport Assets (Restructuring and Disposal) Act 2008

Act amended

Clause 3 provides that this part amends the *Airport Assets (Restructuring and Disposal) Act 2008.*

Amendment of s 56 (Restriction on application of master plan)

Clause 4 inserts a note under section 56 (Restriction on application of master plan). This alerts readers about the transitional provisions applying under the Planning Act [*Sustainable Planning Act 2009*] as a consequence of the amendments to remove master planning and structure planning arrangements from the *Sustainable Planning Act 2009* (chapter 4 Planning partnerships).

Part 3 Amendment of Coastal Protection and Management Act 1995

Act amended

Clause 5 provides that this part amends the *Coastal Protection and Management Act 1995*.

Amendment of s 104B (Applications for operational works involving removal of quarry material)

Clause 6 omits reference to section 264(1) of the Planning Act [*Sustainable Planning Act 2009*] in section 104B(2). This is a consequential amendment resulting from the omission of section 264 (Development involving a state resource) from the *Sustainable Planning Act 2009,* to decouple the resource allocation or entitlement process from the development assessment process.

Part 4 Amendment of Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012

Act amended

Clause 7 provides that this part amends the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

Replacement of s 65 (Replacement of s 261 (When application is a *properly made application*))

Clause 8 replaces section 65, which amends the *Sustainable Planning Act 2009* by replacing section 261 (When application is a *properly made application*). The amendment is necessary as a consequence of removing master planning and structure planning arrangements (chapter 4 Planning partnerships) from the *Sustainable Planning Act 2009*; and with amendments under this Bill providing the assessment manager with discretion to accept an application as properly made despite any noncompliance of the application with regard to mandatory supporting information.

The *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012* changed this section to include the circumstances where an application for a development permit is also taken to be an application for an environmental authority under section 115 of the *Environmental Protection Act 1994* (as inserted by the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*). In these circumstances, it is necessary that the application for the development permit includes the information necessary to assess the application for an environmental authority under the *Environmental Protection Act 1994*. The assessment manager does not have discretion to accept the application if there is non-compliance with section 125 of the *Environmental Protection Act 1994*.

Part 5 Amendment of Fisheries Act 1994

Act amended

Clause 9 provides that this part amends the *Fisheries Act 1994*.

Omission of s 76B (Requirement for resource allocation authority)

Clause 10 omits section 76B, removing the requirement that a development application for a fisheries development approval must be supported by certain evidence. This is a consequential amendment resulting from the omission of section 264 (Development involving a state resource) from the *Sustainable Planning Act 2009,* to decouple the resource allocation or entitlement process from the development assessment process.

Amendment of s 76C (Nature of fisheries development approval for which resource allocation authority required)

Clause 11 omits and replaces sections 76C(1) and (2) with new section 76C(1) which clarifies that a fisheries development approval authorises a person to carry out development under the approval only if the person also holds a resource allocation authority for interfering with a declared fish habitat area (for prescribed declared fish habitat area development). For prescribed aquaculture development, the person should hold a resource allocation authority for interfering with fish habitat in Queensland waters or on unallocated tidal land.

The note accompanying section 76C(2) provides reference to section 88B (Carrying out particular development without resource allocation authority).

The existing section 76C(3) is renumbered 76C(2).

Part 6 Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

Act amended

Clause 12 provides that this part amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009.*

Amendment of s 78B (Distributor-retailer is participating agency)

Clause 13 inserts a note under section 78B(7) which informs readers that the master planning and structure planning arrangements under chapter 4 of the *Sustainable Planning Act 2009* were repealed by the *Sustainable Planning and Other Legislation Amendment Act 2012,* and that transitional provisions apply under chapter 10 part 6 divisions 1 and 2.

Part 7 Amendment of Sustainable Planning Act 2009

Act amended

Clause 14 provides that this part amends *the Sustainable Planning Act 2009.*

Amendment of s 16 (What is a *State planning regulatory provision*)

Clause 15 omits reference to 'master planning' in section 16(1)(a), removing the purpose of a state planning regulatory provision to advance the purpose of the *Sustainable Planning Act 2009* by providing regulatory support for master planning. This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Amendment of s 20 (Power to make State planning regulatory provision)

Clause 16 omits reference to structure plans, proposed structure plans, master planned areas and declared master planned areas in section 20(1)(a), 20(1)(b) and 20(1)(c)(iii). This removes the ability to make a state planning regulatory provision for the purposes of implementing a structure plan or proposed structure plan for a master planned area or for providing a regulated State infrastructure charges schedule for a master planned area. This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Under the amended section 20, the Minister retains the powers to make State planning regulatory provisions to implement a regional plan, to prevent a compromise of the implementation of a proposed regional plan, and to provide for a regulated infrastructure charges schedule for the supply of trunk infrastructure or an adopted infrastructure charges schedule for the supply of trunk infrastructure.

Amendment of s 21 (Content of State planning regulatory provision)

Clause 17 omits section 21(d)(ii) and amends section 21(d)(i) and 21(e) to omit references to structure plans and master plans and renumbers subsections accordingly. This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Insertion of new s 55A

Clause 18 inserts section 55A (Limited application of section 777 for IPA standard provisions) under chapter 2, part 5, division 2.

Sections 55A(1) and (2) clarify that where stated, the standard planning scheme provisions apply to a local planning instrument made under the repealed *Integrated Planning Act 1997* (an *IPA local planning instrument*), and are known as the *IPA standard provisions*.

Section 55A(4) clarifies that despite sections 777(2), (3) and (7), an IPA local planning instrument or temporary local planning instrument must reflect the IPA standard provisions.

Sections 55A(4) clarifies that section 53 (Relationship with local planning instruments) applies to the IPA local planning instrument. Where section

53 makes reference to the standard planning scheme provisions, it is to be taken as if this is a reference to the IPA standard provisions, which must be reflected in the IPA local planning instrument.

Sections 55A(5) to (7) clarify that section 55 (Local governments to amend planning schemes to reflect standard planning scheme provisions) applies. Where section 55(1) refers to the standard planning scheme provisions, it is to be taken as if this were a reference to the IPA standard provisions, which must be reflected in the IPA local planning instrument.

Section 55A(6) requires the local government to amend its IPA local planning instrument to reflect the amended IPA standard provisions when the IPA standard provisions are amended in the standard planning scheme provisions. The reference to amending the standard planning scheme provisions in section 55(2) is to be taken as a reference to amending the standard planning scheme provisions to state that the IPA standard provisions apply.

Section 55A(7) clarifies that references in sections 55(3) or (7) to the standard planning scheme provisions as amended are to be taken as a reference to the IPA standard provisions or the IPA standard provisions as amended.

Amendment of s 73 (Effect of draft State planning regulatory provision and draft amendments)

Clause 19 omits reference to a structure plan in section 73(2)(b). This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Amendment of s 85 (Documents planning scheme may adopt)

Clause 20 omits sections 85(1)(b) and 85(2)(b) referring to a structure plan and master plan, and renumbers remaining subsections accordingly. This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Amendment of s 88 (Key elements of planning scheme)

Clause 21 omits section 88(1)(f), removing the requirement for a structure plan for a declared master planned area in a planning scheme area to be included in a local government planning scheme. This is a consequential

amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Replacement of section 107 (Documents temporary local planning instrument may adopt)

Clause 22 omits section 107 and inserts new section 107 (Temporary local planning instrument may adopt planning scheme policy) which removes reference to a master plan and a structure plan. This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Amendment of s 115 (Planning scheme policy can not adopt particular documents)

Clause 23 omits section 115(2)(b) referring to a master plan and renumbers the remaining subsection (2)(c) to (2)(b). This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Omission of ch 3, pt 5, div 1 (Preliminary)

Clause 24 omits chapter 3, part 5, division 1 which provided that part 5 does not apply to amendments of a local government's planning scheme to include a structure plan. This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Renumbering of ch 3, pt 5, divs 2 and 2A

Clause 25 renumbers chapter 3, part 5, divisions 2 and 2A to divisions 1 and 2. This is an administrative amendment as a result of the previous clause, which omits chapter 3, part 5, division 1 (Preliminary).

Amendment of s 122A (Definitions for div 2A)

Clause 26 corrects a reference in the heading of section 122A (Definitions for div 2A) to refer to the renumbered 'div 2' instead of 'div 2A'.

Amendment of s 122B (Application of div 2A)

Clause 27 corrects a reference in the heading of section 122B (Application of div 2A) to refer to the renumbered 'div 2' instead of 'div 2A'. Section 122B(2) is also amended to correct reference to renumbered 'division 1' rather than 'division 2'.

Amendment of s 126 (Power of Minister to direct local government to take particular action about local planning instrument)

Clause 28 omits the example of a structure plan accompanying section 126(2)(c) and omits section 126(4)(c), removing the power of the Minister to direct a local government to make a structure plan or comply with timeframes for its making. The subclauses are renumbered accordingly. This is a consequential amendment reflecting the policy intent to remove chapter 4 (Planning partnerships) from the *Sustainable Planning Act 2009*.

Omission of ch 4 (Planning partnerships)

Clause 29 omits chapter 4. The purpose of this chapter was to provide for the identification of master planned areas; to make structure plans for declared master planned areas and the process for making structure plans; to make master plans and the process for making master plans; and the particular state assessment manager and referral agency functions to be replaced in the making of structure plans and approval of master plans for the areas.

The omission of chapter 4 (Planning partnerships) achieves the policy intent to remove master plan and structure planning arrangements from the *Sustainable Planning Act 2009*, given these were found to be ineffective and other mechanisms could better provide for planning partnership arrangements.

Amendment of s 207 (Matters the Minister must consider before designating land)

Clause 30 omits section 207(2)(e) and 207(3)(e), removing the requirement for the designating Minister to consider any master plans for the area when considering designating land, and subsequent requirements relating to structure plans, and renumbers the subsections accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 232 (Regulation may prescribe categories of development or require code or impact assessment)

Clause 31 omits references to a master plan in section 232(2) and omits paragraphs (b) and (c) in the note accompanying section 232(3) referring to a master plan and a structure plan. Subsections are renumbered accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 235 (Exempt development)

Clause 32 amends section 235 to remove references to master plan(s) and declared master planned area(s) in section 253(2) and section 253(3). This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 242 (Preliminary approval may affect a local planning instrument)

Clause 33 omits the note supporting section 242(1), referring to a master planned area and a structure plan. This is a consequence of the omission of chapter 4 (Planning partnerships).

Omission of s 253 (Exclusion of particular entitles as referral agency for a master planned area)

Clause 34 omits section 253 relating to an application for land in a declared master planned area. This is a consequence of the omission of chapter 4 (Planning partnerships).

Insertion of new ch 6, pt 1, div 4, sdiv 2A

Clause 35 inserts new subdivision 2A.

‘Subdivision 2A (Chief executive assessing particular applications as assessment manager or referral agency).

Under this new subdivision, it is intended that a subsequent amendment to the *Sustainable Planning Regulation 2009* will prescribe the chief executive as the prescribed entity under section 246 (Who is the assessment

manager), section 250 (Who is an *advice agency*) and section 251 (Who is a *concurrence agency*) for particular development applications.

This new subdivision includes new section 255A (Application requiring code assessment), new section 255B (Application requiring impact assessment) and new section 255C (Chief executive assessing application as a referral agency). These new sections provide the requirements for the chief executive when assessing a development application as the assessment manager or as a referral agency.

Section 255A (Application requiring code assessment) provides that section 255A applies if the chief executive is the assessment manager for an application and any part of the application requires code assessment. For assessing the part of the application, section 313(2)(c), (4) and (5) do not apply and the chief executive may have regard, and give appropriate weight, to the matters prescribed under a regulation.

Section 255B (Application requiring impact assessment) provides that section 255B applies if the chief executive is the assessment manager for an application and any part of the application requires impact assessment. For assessing the part of the application, section 314(2)(c) does not apply and the chief executive may have regard, and give appropriate weight, to the matters prescribed under a regulation.

Section 255C (Chief executive assessing application as a referral agency) applies if the chief executive is assessing an application as a referral agency. For assessing the application, section 282(1)(c) and (e) do not apply and the chief executive may have regard, and give appropriate weight, to the matters prescribed under a regulation.

Omission of ch 6, pt 1, div 6 (Application of IDAS in declared master planned areas)

Clause 36 omits chapter 6, part 1, division 6. It is no longer necessary to provide for the making of an application or proposed application for development in a declared master planned area where there is a structure plan for the area. This is a consequence of the omission of chapter 4 (Planning partnerships).

Renumbering of ch 6, pt 1, div 7

Clause 37 renumbers chapter 6, part 1, division 7 (Giving notices electronically) as chapter 6, part 1, division 6. This is a consequential amendment of the omission of chapter 6, part 1, division 6.

Amendment of s 260 (Applying for development approval)

Clause 38 omits section 260(1)(f), removing the requirement for an application to include evidence of an allocation of, or an entitlement to a state resource as required under section 264 (Development involving a state resource). This is a consequential amendment to the omission of section 264 (Development involving a state resource), to decouple the resource allocation or entitlement process from the development assessment process.

Amendment of s 261 (When application is a *properly made application*)

Clause 39 clarifies when an application is a properly made application. The section is amended to clarify that an application must comply with section 260(1) and (3) to be 'properly made'; and omits the paragraph relating to an application in a declared master planned area as a consequence of the omission of chapter 4 (Planning partnerships).

New section 261(b) provides that the assessment manager must be satisfied that the application complies with sections 260(1)(a), (b), (d) and (e) and 260(3), and may receive and accept the application as properly made after considering any noncompliance with section 260(1)(c) relating to the provision of mandatory supporting information for the application.

Amendment of s 263 (When owner's consent is required for application)

Clause 40 omits section 263(2)(b) and (c) as a consequential amendment to the omission of section 264.

Omission of s 264 (Development involving a state resource)

Clause 41 omits section 264 which provides that certain evidence must accompany an application for development involving a state resource. This is an amendment reflecting the policy intent to decouple the resource

allocation or entitlement process from the development assessment process.

Amendment of s 282 (Referral agency assesses application)

Clause 42 inserts a note under section 282(1) to indicate that section 255C (Chief executive assessing application as a referral agency) applies if the chief executive is a referral agency for the application.

Section 282(2)(c) and (d) are omitted, removing the requirement that each referral agency must, to the extent relevant to the development and within the limits of its jurisdiction, assess the application having regard to the structure plan and master plan for any declared master planned area. Subsections 282(2)(e) to (h) are renumbered accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 313 (Code assessment—generally)

Clause 43 inserts a note under section 313(2)(c) to clarify that section 255A (Application requiring code assessment) applies if the chief executive is the assessment manager for the application.

Section 313(2)(e) is also amended to remove paragraphs (i) and (ii) relating to a structure plan and master plan, and renumbers the remaining subsections (2)(e)(iii) to (v) accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

The note accompanying section 313(2) also corrects references from 'chapters 2 to 4' to 'chapters 2 and 3'. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 314 (Impact assessment—generally)

Clause 44 inserts a note under section 314(2)(c) to clarify that section 255B (Application requiring impact assessment) applies if the chief executive is the assessment manager for the application.

Sections 314(2)(e) and (f) are omitted to remove reference to a structure plan, declared master planned areas and master plans, and sections 314(2)(g) to (k) are renumbered accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

The note accompanying section 314(2) also corrects references from 'chapters 2 to 4' to 'chapters 2 and 3'. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 316 (Assessment for s 242 preliminary approvals that affect a local planning instrument)

Clause 45 omits sections 316(4)(c)(iv) and (v) to remove reference to a structure plan and master plan. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 322 (Decision-making period suspended until approval of master plan)

Clause 46 omits section 322 which was relevant to applications for land in a declared master planned area where a master plan has not been approved. This section is no longer necessary as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 324 (Decision generally)

Clause 47 omits section 324(4) and (5) in relation to a master plan application and renumbers subsection 6 accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 331 (Deemed approval of applications)

Clause 48 amends sections 331(7) to correct the reference to renumbered section 324(4)(a).

Amendment of s 339 (When approval takes effect)

Clause 49 amends section 339(2) to correct the reference to renumbered section 263(2)(b).

Amendment of s 340 (When development may start)

Clause 50 omits section 340(3) in relation to when development can start on land in a declared master planned area. This is a consequence of the omission of chapter 4 (Planning partnerships).

Omission of s 365 (Giving new regulated State infrastructure charges notice)

Clause 51 omits section 365, relating to regulated State infrastructure charges notices applicable to master planned areas. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 370 (Notice of request)

Clause 52 omits section 370(3) and (4) given its application under section 264(1) and renumbers subsection (5) accordingly. This is a consequential amendment given the omission of section 264 (Development involving a state resource).

Amendment of s 371 (When owner's consent required for request)

Clause 53 amends section 371(a) to correct the reference to renumbered section 263(2)(b).

Amendment of s 380 (Restriction on making request)

Clause 54 omits section 380(2)(c) given its application under section 264(1). This is a consequential amendment given the omission of section 264 (Development involving a state resource).

Amendment of s 383 (Request to extend period in s 341)

Clause 55 omits section 383(3)(e) given its application under section 264(1). This is a consequential amendment given the omission of section 264 (Development involving a state resource).

Amendment of s 393 (Purpose of compliance stage)

Clause 56 omits section 393(c) which provided for compliance assessment against a master plan, and renumbers subsections (d) and (e) accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 397 (Nominating a document or work for compliance assessment—generally)

Clause 57 omits sections 397(2)(b) and (c) which provided for a master plan and structure plan to state the document or works requiring compliance assessment, and renumbers remaining subsections (d) to (f) accordingly. This is a consequence of the omission of Chapter 4 (Planning partnerships).

Amendment of s 398 (Nominating document or work for compliance assessment—condition of development approval or compliance permit)

Clause 58 omits section 398(3)(g) which provided for a development approval in a declared master planned area to nominate a matter or thing stated in the structure plan or master plan. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 445 (Rules of Court)

Clause 59 amends section 445 to allow for an amendment to the *Planning and Environment Court Rules 2010* to be made to provide guidance to the Court and parties as to how the discretion in section 457 is to be exercised in certain circumstances, where to apply the provisions of the *Uniform Civil Procedure Rules 1999* may result in unintended or unfair outcomes.

Amendment of s 456 (Court may make declarations and orders)

Clause 60 omits reference to master plans and structure plan guidelines from section 456(1)(b). This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 457 (Costs)

Clause 61 renumbers section 457(3) to (9) as section 457(7) to (13), omits existing section 457(1) and (2) and replaces with new section 457(1) to (6).

Section 457(1) provides that costs of a proceeding (including an application in proceeding) are in the discretion of the Court but follow the event unless the court orders otherwise.

Section 457(2) provides that without limiting the court's discretion at subsection (1), the court may order each party to a proceeding to bear the

party's own costs for the proceeding – if early in the proceeding, the parties to the proceeding participate in a dispute resolution process under the Alternative Dispute Resolution (ADR) provisions or the *Planning and Environment Court Rules 2010*; and if the proceeding is resolved at, or soon after the dispute resolution process has been finalised.

Section 457(3) clarifies that for subsection 1, if the parties to the proceeding under this part participate in a dispute resolution process under the ADR provisions or the *Planning and Environment Court Rules 2010* and the proceeding is not resolved, the costs of the proceeding includes the costs of the dispute resolution processes.

Section 457(4) clarifies that the costs of a proceeding under subsection (1) include certain investigations costs.

Section 457(5) clarifies that investigation costs for subsection (4) includes costs the court decides were reasonably incurred by a party relating to the investigations, gathering of evidence for the making of a declaration or order, the giving of the enforcement notice, or bringing of the proceeding.

Section 457(6) clarifies that subsection (7) to (12) apply despite subsection (1).

Amendment of s 460 (Evidence of local planning instruments or master plans)

Clause 62 omits reference to 'master plans' from the heading of section 460, and removes references to a master plan in sections 460(1) and (2). This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 463 (Additional and extended appeal rights for submitters for particular development applications)

Clause 63 omits references to the 'prescribed' concurrence agency under subsection 463(2) to refer to 'a concurrence agency' and also removes references to circumstances where the prescribed concurrence agency is the chief executive (environment) under subsection 463(3)(a) or the chief executive (fisheries) under subsection 463(3)(b) and (4)(a). This amendment will preserve the existing appeal rights for submitters while reflecting the intent to establish a single state assessment and referral agency for particular development applications, where the chief executive will be the assessment manager or a referral agency.

Omission of s 471 (Appeal by applicant for approval of a proposed master plan)

Clause 64 omits section 471 which provided for appeals for approval of a proposed master plan. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 478 (Appeals about particular charges for infrastructure)

Clause 65 removes references to a regulated State infrastructure charges notice or schedule, or negotiated regulated State infrastructure charges notice, in sections 478(1)(a) and (b) and 478(5), as these apply to master planned areas. It also removes reference to a 'coordinating agency' in section 478(4)(a). This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 484 (Notice of appeal to other parties – other matters)

Clause 66 omits section 484(1)(a), which referred to section 471, and renumbers subsections (1)(b) to (i) accordingly. Section 471 (Appeal by applicant for approval of a proposed master plan) is omitted as a consequence of the omission of chapter 4 (Planning partnerships).

Insertion of new ch 7, pt 1, div 12A

Clause 67 inserts new chapter 7, part 1, division 12A.

'Division 12A ADR registrar

New sections 491A, 491B and 491C are inserted under new division 12A.

Division 12A (ADR registrar) achieves the policy objectives of adding to the efficiency of the Planning and Environment Court by providing for the Chief Judge of the District Court to direct the ADR registrar to exercise a power of the Court generally and for the Court to direct the ADR registrar hear and decide particular matters of a minor nature without the burden of an expensive trial and the risk of adverse costs orders.

Section 491A (Definition for div 12A) defines the meaning of Alternative Dispute Resolution (ADR) registrar for division 12A. The ADR registrar is a registrar or court officer of the District Court appointed as an ADR registrar by the principal registrar of the court in consultation with the Chief Judge of the District Court.

Section 491B (Power of ADR registrar) provides the powers of the ADR registrar under this part.

Subsection (1) provides that the Chief Judge of the District Court may issue directions about the matters in which the ADR registrar may exercise a power of the court.

Subsection (2) provides that the court may direct the ADR registrar in a particular matter to hear and decide a proceeding under this part.

Subsection (3) provides that if the court directs the ADR registrar under subsection (2) and the ADR registrar decides the proceeding, each party to the proceeding bears the party's own costs for the proceeding.

Subsection (4) provides how the ADR registrar should act and inform himself or herself in exercising the power of the court under this division.

Subsection (5) provides that the court may review a decision, direction or act of the ADR registrar made, given or done under this part.

Subsection (6) provides that an application for the review of a decision made, given or done by the ADR registrar must be made within 21 days after the decision, direction or act complained of or any further period allowed by the court.

Section 491C (Reference by ADR registrar) clarifies that the ADR registrar may refer a proceeding to the court if it appears to the registrar to be proper for the decision of the court. In this event, the court may dispose of the matter or refer it back to the ADR registrar with any direction the court considers appropriate.

Amendment of s 493 (Who must prove case)

Clause 68 omits section 493(1) in relation to a proposed master plan. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 495 (Appeal by way of hearing anew)

Clause 69 amends section 495(2) and omits section 495(5) with regard to a proposed master plan, and renumbers section 495(6) accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 510 (Declaration about whether development application is properly made)

Clause 70 omits reference in section 510(4) to evidence prescribed under the regulation for a development application involving a state resource. This is a consequential amendment given the omission of section 264 (Development involving a state resource).

Amendment of s 535 (Appeals about charges for infrastructure)

Clause 71 removes references to a regulated State infrastructure charges notice or schedule, and negotiated regulated State infrastructure charges notice in sections 535(1)(a)(i) and (ii) and section 535(4), as these apply to master planned areas. This is a consequence of the omission of chapter 4 (Planning partnerships).

Omission of s 583 (Compliance with master plans)

Clause 72 omits section 583 regarding master plans. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 584 (General exemption for emergency development or use)

Clause 73 amends section 584(1) to remove the reference to omitted section 583.

Amendment of s 587 (False or misleading document or declaration)

Clause 74 omits section 587(2)(c) regarding a master plan application and renumbers subsections (2)(d) and (e) accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 592 (Specific requirements of enforcement notices)

Clause 75 omits references to a master plan and master planning application in sections 592(1)(e) and (f) and section 592(2)(a). This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 595 (Processing application or request required by enforcement notice or show cause notice)

Clause 76 omits reference to a master plan application in section 595. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 599 (Magistrates Court may make orders)

Clause 77 omits reference to a master plan in section 599(3)(d) and reference to a master plan application in section 599(3)(e). This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 623 (Evidentiary aids generally)

Clause 78 omits section 623(d) regarding a master plan and renumbers subsections (e) to (g) accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 625 (Purpose of pt 1)

Clause 79 omits the note under section 625 given its reference to omitted section 196 (Modified application of provisions about infrastructure for master plan). This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of 648D (Local government may decide matters about charges for infrastructure under State planning regulatory provision)

Clause 80 omits section 648D(8) and renumbers subsections (9) to (11) accordingly. Section 648D(8) referred to whether a local government may state whether or not an adopted infrastructure charge may be levied for development in a declared master planned area. This is no longer necessary given the omission of chapter 4 (Planning partnerships).

Amendment of s 648E (When adopted infrastructure charge cannot be levied)

Clause 81 omits section 648E(c) given its reference to development in a declared master planned area. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 648F (Adopted infrastructure charges notices)

Clause 82 amends section 648F(1)(e) to correct the reference to renumbered section 648D(9)(b).

Amendment of s 648HA (Special provision about increase in adopted infrastructure charge by local government)

Clause 83 amends section 648HA(2) to correct the reference to renumbered section 648D(9)(b).

Amendment of s 648K (Agreements about, and alternatives to, paying adopted infrastructure charge)

Clause 84 amends section 648K(5) to correct the reference to renumbered section 648D(9)(b).

Amendment of s 661 (Content of infrastructure agreements)

Clause 85 omits section 661(2)(b) providing for matters related to the making of a structure plan for a declared master planned area or master plans for a master planned area; and omits section 661(3) regarding payment for the making of a structure plan. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 664 (Exercise of discretion unaffected by infrastructure amendments)

Clause 86 omits sections 664(a) and (b) regarding a structure plan, proposed structure plan, master plan or an application for approval of a master plan, and renumbers subsections (c) and (d) accordingly. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 665 (Infrastructure agreements prevail if inconsistent with particular instruments)

Clause 87 amends section 665(1) to remove reference to a master plan in section 665(1) and omits section 665(2)(d) regarding a regulated State infrastructure charges notice or negotiated regulated State infrastructure charges notice, as these apply to master planned areas. This is a consequence of the omission of chapter 4 (Planning partnerships).

Omission of ch 8, pt 3 (Funding of State infrastructure in master planned areas)

Clause 88 omits chapter 8, part 3, sections 666 to 674. The purpose of part 3 was to seek to integrate land use and State infrastructure plans for master planned areas, to establish an infrastructure funding framework for State infrastructure in master planned areas and to integrate State infrastructure providers into the framework. Part 3 is no longer necessary given the omission of chapter 4 (Planning partnerships).

Amendment of s 675 (Definition for pt 4)

Clause 89 omits reference to a regulated State infrastructure charges notice in the definition of *relevant appeal period* for part 4, as regulated State infrastructure charges notices apply to master planned areas. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 676 (Application of pt 4)

Clause 90 omits reference to a regulated State infrastructure charges notice, applicable to master planned areas. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 678 (Consideration of representations)

Clause 91 omits the reference to a regulated State infrastructure charges notice, applicable to master planned areas. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 679 (Decision about representations)

Clause 92 omits section 679(1)(d) which removes the requirement to give the negotiated regulated State infrastructure charges notice relating to

representations about the notice applicable to master planned areas, and amends subsections (2) and (3) to remove references to the negotiated regulated State infrastructure charges notice. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 680 (Suspension of relevant appeal period)

Clause 93 omits references in section 680(1) to a regulated State infrastructure charges notice, and in subsection (4)(c) to a negotiated regulated State infrastructure notice, as these are applicable to master planned areas. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 684 (New planning instruments can not affect existing development approvals or compliance permits)

Clause 94 omits the note under section 684(2) providing a reference to section 154 (New planning instruments can not affect approved master plan) which previously provided an equivalent effect for approved master plans and which has been omitted as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 688 (Where EIS process applies)

Clause 95 omits section 688(c) which removes the reference to master plan applications, as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 689 (Purpose of EIS process)

Clause 96 omits section 689(g) which removes the reference to master plan applications, as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 690 (Applying for terms of reference)

Clause 97 omits section 690(4) which provides that the Environmental Impact Statement (EIS) must be prepared for the first of 1 or more master plan applications, as a consequence of the omission of chapter 4 (Planning partnerships), and renumbers remaining subsections and references.

Amendment of s 691 (Draft terms of reference for EIS)

Clause 98 omits section 691(9)(c) which removes the requirement for the chief executive to give a copy of the draft terms of reference for an Environmental Impact Statement (EIS) for development that is the subject of a master plan application, and a copy of the notice publicly notifying the draft terms of reference, to any coordinating agency, as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 692 (Terms of reference for EIS)

Clause 99 omits section 692(5)(c) which removes the requirement for the chief executive to give a copy of the terms of reference for an Environmental Impact Statement (EIS) for development that is the subject of a master plan application to the local government and any coordinating agency, as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 694 (Public notification of draft EIS)

Clause 100 omits section 694(1)(d) which removes the requirement for the chief executive to give a copy of the draft Environmental Impact Statement (EIS) for development that is the subject of a master plan application to the local government and any coordinating agency, as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 696 (Chief executive evaluates draft EIS, submissions and other relevant material)

Clause 101 amends section 696(1) to remove the reference to omitted section 700(d).

Amendment of s 700 (Who the chief executive must give EIS and other material to)

Clause 102 omits section 700(d) which removes the requirement for the chief executive to give a copy of an Environmental Impact Statement (EIS) for development that is the subject of a master plan application to the local government and any coordinating agency, as a consequence of the omission of chapter 4 (Planning partnerships), and renumbers remaining subsections accordingly.

Amendment of s 706 (Limitations on compensation under ss 704 and 705)

Clause 103 omits section 706(1)(j) relating to matters under a structure plan, as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 714 (Local government may take or purchase land)

Clause 104 omits references to a structure plan in section 714(1)(a), and omits references to a master plan in sections 714(1)(b) and (1)(b)(ii), as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 724 (Documents local government must keep available for inspection and purchase—general)

Clause 105 removes the requirements under section 724(1) for the local government to keep documents relating to structure plans, master planned area declarations and master plans available for inspection and purchase, as a consequence of the omission of chapter 4 (Planning partnerships), and renumbers the remaining paragraphs. Section 724(5), (6) and (8) are also amended to reflect the renumbered paragraphs under section 724(1).

Omission of s 725 (Documents local government must keep available for inspection and purchase—master plan applications)

Clause 106 omits section 725, removing the requirement for the local government to keep master plan applications available for inspection and purchase, as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 727 (Documents local government must keep available for inspection only)

Clause 107 omits sections 727(1)(c), (2) and (3), removing the requirement for the local government to keep a register of all master plan applications made to the local government available for inspection, as a consequence of the omission of chapter 4 (Planning partnerships), and renumbers the remaining subsection.

Amendment of s 732 (Documents chief executive must keep available for inspection and purchase)

Clause 108 omits section 732(1)(i), removing the requirement for the chief executive to keep master planned area declarations available for inspection and purchase, as a consequence of the omission of chapter 4 (Planning partnerships), renumbers remaining subsections and removes reference to omitted section 145.

Amendment of s 739 (Standard planning and development certificates)

Clause 109 omits subsections 739(f) and (g) removing details about a master plan or master plan application, and amends subsections 739(k) and (n) to remove references to conditions of a master plan or an amendment to include a structure plan, as requirements for standard planning and development certificates, and renumbers remaining subsections. This is a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 740 (Full planning and development certificates)

Clause 110 omits subsection 740(1)(b) removing details about a master plan as a requirement for full planning and development certificates, and renumbers remaining subsections and references, as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 744 (When notification stage under pt 7 applies)

Clause 111 amends section 744 to reflect the intent to establish a single state assessment and referral agency for particular development applications, replacing the assessment manager or prescribed concurrence agencies that apply to the development application made prior to commencement.

Amendment of s 745 (When can notification stage start)

Clause 112 amends section 745 to reflect the intent to establish a single state assessment and referral agency for particular development applications, replacing the assessment manager or prescribed concurrence

agencies that apply to the development application made prior to commencement.

Amendment of s 749 (Notice of compliance to be given to assessment manager and concurrence agency)

Clause 113 amends section 749 to reflect the intent to establish a single state assessment and referral agency for particular development applications, replacing the assessment manager or prescribed concurrence agencies that apply to the development application made prior to commencement.

Amendment of s 750 (Assessment manager may assess and decide application if some requirements not complied with)

Clause 114 amends section 750 to reflect the intent to establish a single state assessment and referral agency for particular development applications, replacing the assessment manager or prescribed concurrence agencies that apply to the development application made prior to commencement.

Amendment of s 751 (Making submissions)

Clause 115 amends section 751 to reflect the intent to establish a single state assessment and referral agency for particular development applications, replacing the assessment manager or prescribed concurrence agencies that apply to the development application made prior to commencement.

Amendment of s 753 (When does notification stage end)

Clause 116 amends section 753 to reflect the intent to establish a single state assessment and referral agency for particular development applications, replacing the assessment manager or prescribed concurrence agencies that apply to the development application made prior to commencement.

Amendment of s 754 (Referral agency must not respond before notification stage ends)

Clause 117 amends section 754 to reflect the intent to establish a single state assessment and referral agency for particular development applications, replacing the assessment manager or prescribed concurrence agencies that apply to the development application made prior to commencement.

Amendment of s 755 (Adjusted referral agency's assessment period)

Clause 118 amends section 755 to reflect the intent to establish a single state assessment and referral agency for particular development applications, replacing the assessment manager or prescribed concurrence agencies that apply to the development application made prior to commencement.

Amendment of s 756 (Giving electronic submissions)

Clause 119 omits reference to a master plan application in subsection 756(1)(a) as a consequence of the omission of chapter 4 (Planning partnerships).

Amendment of s 759 (Minister may make guidelines)

Clause 120 amends section 759(4) to remove the reference to omitted section 145.

Insertion of new ss 761A and 761B

Clause 121 inserts new sections 761A (Special requirement to amend or make planning scheme) and 761B (Review of operation of s 761A).

Section 761A(2) provides that within 3 years after commencement of these provisions, a local government must amend its *Sustainable Planning Act 2009* planning scheme to incorporate the structure plan for each declared master planned area.

Section 761A(3) clarifies that if a local government does not have a *Sustainable Planning Act 2009* planning scheme, i.e. it has a planning scheme made under the repealed *Integrated Planning Act 1997*, the local government must make a new planning scheme under the *Sustainable*

Planning Act 2009 within 3 years after commencement, incorporating the structure plans for each declared master planned area.

Section 761A(4) provides definitions relevant to the section.

Section 761B provides that the Minister administering the *Sustainable Planning Act 2009* must review the operation of section 761A within 3 years of the commencement of *the Sustainable Planning and Other Legislative Amendment Act 2012*.

Insertion of new ch 10, pt6

Clause 122 inserts transitional provisions under new chapter 10 part 6 relating to the omission of chapter 4 (Planning partnerships).

‘Part 6 Transitional provisions for Sustainable Planning and Other Legislation Amendment Act 2012

‘Division 1 Preliminary

New sections 893 and 894 are inserted under division 1.

Section 893 (Definitions for pt 6) provides new definitions for part 6 dealing with the transition of provisions for declared master planned areas, structure plans, master plans and master plan applications.

Section 894 (References to former provisions) clarifies that if this part states that a former provision continues to apply, the former provision, including any other former provision mentioned in the provision or necessary to give effect to the provision, continues to apply as if the amending Act had not been enacted.

‘Division 2 Provisions for former chapter 4

New sections 895 to 944 are inserted under division 2.

‘Subdivision 1 Preliminary

The former chapter 4 (Planning partnerships) contained the provisions dealing with master planning arrangements through the preparation of structure plans and master plans. Under this Bill, these arrangements have largely been removed and transitional arrangements are provided under division 2 to protect the use and development rights established by existing structure plans and master plans.

Section 895 (Operation of division 2) clarifies that division 2 provides for the continued operation of provisions under former chapter 4 (Planning partnerships).

‘Subdivision 2 State planning instruments and local planning instruments

Section 896 (State planning regulatory provisions relating to master planning) provides that a State planning regulatory provision may continue to provide regulatory support for master planning. The transitional provisions preserve the Minister’s powers to make a State planning regulatory provision to implement a structure plan; or to prevent compromising of the implementation of a structure plan; or to provide for a regulated State infrastructure charges schedule for a former master planned area. The Minister may continue to specify that particular draft state planning regulatory provisions or draft amendments made to prevent a compromise of the implementation of a structure plan, take effect immediately on notification of the draft.

Section 897 (Adoption of documents by local planning instruments) provides that a *Sustainable Planning Act 2009* planning scheme or a temporary local planning instrument may apply, adopt or incorporate a structure plan or master plan, and a planning scheme policy may apply, adopt or incorporate a master plan.

‘Subdivision 3 Structure plans

Section 898 (General matters about structure plans) ensures structure plans continue in force from commencement until such time as they have been incorporated into new *Sustainable Planning Act 2009* planning schemes. They may also continue to state development is prohibited development only where the standard planning scheme provisions (the Queensland Planning Provisions) state the development may be prohibited development.

The content of structure plans remains relatively unchanged, with the exception of the removal of any provisions relating to master plan requirements; the identification of alternative levels of assessment for impact assessable development; the requirement that development can not be carried out until there is a master plan for the area; and restrictions on section 242 preliminary approvals.

Section 899 (Changes to restrictions on particular development applications in master planned area) clarifies that a development application for a section 242 preliminary approval made after commencement for a master planned area can seek to vary the effect of the structure plan area code, and that notification requirements under chapter 6 part 4 apply to the application.

Section 900 (Amendments of planning scheme to include structure plans) provides that a local government is required to amend its *Sustainable Planning Act 2009* planning scheme to incorporate a structure plan in accordance with the guideline made under chapter 3, part 5 of the Act.

Section 901 (Structure plans not in effect on the commencement) clarifies that any structure plans that have not taken effect before commencement (i.e. for Caboolture West and Mount Peter declared master planned areas) are required to be made or amended under the local government’s *Sustainable Planning Act 2009* planning scheme. In the interim, a local government may seek to make a temporary local planning instrument to put provisions in place to assess development in the area.

Section 902 (Agreements to fund structure plans) ensures any agreement entered into by a local government before commencement to fund the preparation of a structure plan continues in force from commencement. However, the local government must amend its *Sustainable Planning Act*

2009 planning scheme or make a temporary local planning instrument to incorporate the structure plan.

'Subdivision 4 Master plans

Section 903 (Existing master plans) provides that a master plan remains in force at the commencement until such time as the master plan ceases to have effect under section 908.

Sections 904 to 908 provide that former sections 152 to 154, 156 and 158 continue to apply to the master plan from commencement.

Section 909 (existing applications for approval of master plans) enables a master plan application made before commencement to continue to be assessed and decided against the provisions of the former chapter 4, part 3, division 3. However, the master plan may not require later master plans for the master planning unit nor may it state the requirements with which a later master plan must comply.

Section 910 (Applications for amendment or cancellation of master plans) also clarifies that a master plan approval may continue to be amended or cancelled as required as if the Act had not been amended. However, the master plan may not require later master plans for the master planning unit nor may it state the requirements with which a later master plan must comply.

'Subdivision 5 Designation of land for community infrastructure

Section 911 (Minister must consider master plans before designating land) provides that the Minister must continue to consider any relevant master plans that may apply to the land that is the subject of the proposed designation as if the former section 207 had not been amended by the amending Act.

Section 912 (Categories of development for master plans) provides that a regulation may continue to prescribe development that a master plan can not declare to be self-assessable development, development requiring compliance assessment, assessable development or prohibited development

[*Sustainable Planning Regulation 2009*, schedule 4]. This has the effect that the relevant development continues to be exempt from assessment against the master plan.

Section 913 (Exempt development in master planned areas) ensures that master plans in effect on the commencement can continue to affect exempt development in the circumstances stated in the former section 235(3)(a) and (b).

Section 914 (Exclusion of particular entities as referral agency for a master planned area) clarifies that the referral jurisdictions specified in a structure plan as applying to a master plan level or development application level continues to apply to development unless a regulation provides otherwise. However, the former section 253 only applies to a section 242 preliminary approval if the development is consistent with the structure plan area code and master plan area code and does not seek to vary the levels of assessment under section 295(3)(b).

Section 915 (Exclusion of particular provisions about making development application for declared master planned area) provides that where an existing structure plan is in effect, the former sections 258(2)(a) and (d) and (3) continue to apply to development applications made before commencement. These provisions continue to prevail despite any other Act or to the extent of any inconsistency with another provision of chapter 6 (Integrated Development Assessment System). This ensures an application for development in a declared master planned area may continue to include development prohibited under schedule 1.

Section 916 (Referral agency assesses application) clarifies that the requirements for referral agencies when assessing applications within a former master planned area continue to apply as if former section 282 had not been amended by the amending Act. However, if the chief executive is a referral agency for the application, section 255C applies to the assessment of the application. (Section 255C commences by proclamation, not on assent of the amending Act, and affects how the chief executive assesses a development application under section 282.)

Section 917 (Code and impact assessment and particular s 242 preliminary approval assessment) clarifies that the assessment requirements for any part of a development application or a preliminary approval mentioned under the former sections 313, 314 or in section 316 continue to apply from commencement. However, if the chief executive is the assessment manager for the application, sections 255A or 255B apply to the assessment of the

application. (Sections 255A and 255B commence by proclamation, not on assent of the amending Act, and affect how the chief executive assesses a development application under sections 313 or 314.)

Section 918 (Continued application of former provisions relating to decision for and approval of application) clarifies that the rules relating to a decision for and approval of a master plan application mentioned under the former sections 322 and 324 continue to apply from commencement.

Section 919 (Compliance assessment of development application) clarifies that the compliance assessment requirements for development, a document or work assessable against a structure plan or a master plan under the former sections 393, 397 and 398 continue to apply from commencement.

'Subdivision 7 Appeals, offences and enforcement

Section 920 (Court matters relating to master plans and the structure plan guideline) enables a person to continue to bring a proceeding in the Planning and Environment Court for a declaration about the construction of master plans.

Section 921 (Appeals to court relating to master plans) provides that the power of the Planning and Environment Court to make declarations or orders about a master plan, or a proposed master plan, under the former sections 471, 484, 493 and 495 continue to apply from commencement.

Sections 922 (Compliance with master plans) and 923 (False or misleading document relating to master plan application) provides that the offences and penalties that relate to a master plan or document relating to a master plan under the former sections 583 and 587 continue to apply from commencement.

Section 924 (Enforcement notices and orders relating to master plans and master plan applications) provides that the requirements of enforcement notices and orders relating to master plans or master plan applications under the former sections 592 or 599 continue to apply whether the notice was given before or after commencement.

Section 925 (Evidentiary aids relating to master plan application) enables evidentiary aids relating to a master plan application under the former section 623 to continue to apply before or after commencement.

'Subdivision 8 Funding for infrastructure

New sections under subdivision 8 provide for the continued funding of state infrastructure in a master planned area through a regulated State infrastructure charge or by entering into an infrastructure agreement.

Section 926 (Adopted infrastructure charges) provides that a local government may continue to make an adopted infrastructure charges resolution for development in a former declared master planned area as if the former sections 648D and 648E had not been amended by the amending Act.

Section 927 (Infrastructure agreements) provides that an infrastructure agreement for the making of a structure plan or for master plans, including the effect of former sections 664 and 665 on the infrastructure agreement, continues to have effect whether or not the agreement was entered into before or after the commencement.

Section 928 (Regulated State infrastructure charges schedule for master planned area) provides that a regulated State infrastructure charges schedule for a master planned area continues to have effect after the commencement, and that regulated State infrastructure charges schedules may continue to be made to provide for the continued funding of state infrastructure in a master planned area.

Sections 929 (Regulated State infrastructure charges notice) and 930 (Giving new regulated State infrastructure charges notice) ensure that the effect of a regulated State infrastructure charges notice or a new regulated State infrastructure charges notice in relation to a negotiated decision notice, continues to apply after commencement, and that a regulated infrastructure charges notice or new regulated State infrastructure charges notice may be given in relation to development approved under a decision notice or negotiated decision notice.

Section 931 (When regulated State infrastructure charge is payable) provides that the provisions of former section 670 continue to apply to the payment of a regulated State infrastructure charge.

Section 932 (Application of regulated State infrastructure charges) requires that the charges levied and collected must be used to provide for a network of State infrastructure. Section 933 (Accounting for regulated State infrastructure charges) declares that the regulated State infrastructure charge collected by the infrastructure provider need not be held in trust.

Section 934 (Infrastructure agreements about, and alternatives to, paying regulated State infrastructure charges) enables the State infrastructure provider and the person given the regulated State infrastructure charges notice to enter an agreement about how the charge may be paid. An infrastructure agreement made before commencement continues to apply after commencement.

Section 935 (Recovery of regulated State infrastructure charges) ensures that the provisions of the former section 674 continue to apply after commencement.

Section 936 (Appeals about charges for infrastructure) enables a person who has been given a regulated State infrastructure charges notice or a negotiated regulated State infrastructure charges notice to appeal to the court if the person is dissatisfied about the charge.

'Subdivision 9 Miscellaneous

Section 937 (Limitations on compensation under ss 704 and 705 relating to structure plan) provides for the continued limitation on compensation relating to a change to a planning scheme or planning scheme policy as a result of a structure plan.

Section 938 (Local government may take or purchase land in master planned area) clarifies that a local government may continue to take or purchase land in a former master planned area.

Section 939 (Documents local government or chief executive must keep available for inspection and purchase—general) requires a local government or chief executive to continue to keep documents relating to a structure plan available for inspection and purchase.

Section 940 (Documents local government must keep available for inspection and purchase—master plan applications) provides that the requirements under former section 725 continue to apply to a local government for keeping documents about master plan applications.

Section 941 (Documents local government must keep available for inspection only) provides that the requirements under former section 727 continue to apply to a local government for keeping a register of all master plan applications made to the local government.

Section 942 (Standard planning and development certificates and full planning and development certificates) requires that planning and development certificates are to continue to reference each master plan applying to the premises and include certain documentation about a master plan.

Section 943 (Electronic submissions about master plan applications) provides that a local government or the Minister may continue to accept electronic submissions about master plan applications from commencement.

Section 944 (Continued application of particular transitional provisions relating to master planned areas) clarifies that the transitional provisions relating to master planned areas under the repealed *Integrated Planning Act 1997* continue to apply from commencement with the exception of section 858 about the transition of development control plans to master planning documents.

'Division 3 Other provisions

New sections 945 to 947 are inserted under new division 3.

Section 945 (Chief executive assessing particular applications as assessment manager or referral agency) clarifies that where a development application is made but not decided on the commencement of the provisions for the single state assessment manager or referral agency, the application must be dealt with and decided as if section 35 of the *Sustainable Planning and Other Legislation Amendment Act 2012* had not commenced.

A note under section 945 informs readers that section 35 of the amending Act inserts new chapter 6, part 1, division 4, subdivision 2A (Chief executive assessing particular applications as assessment manager or referral agency).

Section 946 (Costs for existing court proceedings) subsection (1) establishes that proceedings commenced before the commencement of the amendment will continue to be subject to the former provisions as to costs, namely each party bear their own costs except in the circumstances set out in the former section. Subsection (2) makes it clear that any application made within those proceedings is also subject to those same provisions.

Section 947 (Declaration about whether development application involving particular State resource is properly made) clarifies that former section 510(4) continues to apply after commencement, ensuring a person can not seek a declaration under that section about whether a development application involving a State resource is properly made if the declaration is about whether the application is supported by evidence or an allocation of resource entitlement.

Amendment of sch 3 (Dictionary)

Clause 123 omits or amends definitions relating to structure planning and master planning, as a consequence of the omission of chapter 4 (Planning Partnerships); and omits definitions relating to particular aquaculture applications subject to chapter 9 part 7 as a consequence of the single state assessment manager and referral agency provisions under clause 35.

New definitions for *ADR provisions* and *ADR Registrar* are inserted to support the Alternative Dispute Resolution (ADR) provisions under new chapter 7 part 1 division 12A.

The definitions of *code assessment* and *impact assessment* are amended to include the provisions relevant to the chief executive as assessment manager, as a consequence of the single state assessment manager and referral agency provisions under clause 35.

This clause also renumbers paragraph references where these have been amended by the *Sustainable Planning and Other Legislation Amendment Bill 2012*.

Part 8 Amendment of Transport Infrastructure Act 1994

Act amended

Clause 124 provides that this part amends the *Transport Infrastructure Act 1994*.

Amendment of s 247 (Chief executive taken to be owner of rail corridor land and non-rail corridor land for particular circumstances under Planning Act)

Clause 125 omits section 247(1A) which clarifies that this section applies if an application in relation to land that is rail corridor land or non-rail corridor land is required to be supported by evidence under section 264 of the Planning Act [*Sustainable Planning Act 2009*]. This is a consequential amendment resulting from the omission of section 264 (Development involving a state resource) from the *Sustainable Planning Act 2009,* to decouple the resource allocation or entitlement process from the development assessment process.

Section 283ZZD—

Clause 126 inserts a note under section 283ZZD (Restriction on application of master plan). This alerts readers about the transitional provisions applying under the Planning Act [*Sustainable Planning Act 2009*] as a consequence of the amendments to remove master planning and structure planning arrangements from the *Sustainable Planning Act 2009* (chapter 4 Planning partnerships).

Part 9 Amendment of Water Act 2000

Act amended

Clause 127 provides that this part amends the *Water Act 2000.*

Amendment of s 967 (Approval for development under Sustainable Planning Act 2009 is subject to approval under this Act)

Clause 128 amends the heading of section 967 (Development under Sustainable Planning Act 2009 relating to taking or interfering with water), and omits subsections (3) and (4), removing the requirement for the development permit to be accompanied by the chief executive's written consent to the application being made. This is a consequential amendment resulting from the omission of section 264 (Development involving a state resource) from the *Sustainable Planning Act 2009,* to decouple the

resource allocation or entitlement process from the development assessment process.

Replacement of s 969 (Development applications for the removal of quarry material)

Clause 129 amends section 969 to remove the requirement for a development application for the removal of quarry material to be supported by evidence of an allocation notice granted under section 283 (Deciding application for allocation of quarry material) in relation to the land the subject of the application. This is a consequential amendment resulting from the omission of section 264 (Development involving a state resource) from the *Sustainable Planning Act 2009,* to decouple the resource allocation or entitlement process from the development assessment process.

Part 10 Amendment of Water Supply (Safety and Reliability) Act 2008

Act amended

Clause 130 provides that this part amends the *Water Supply (Safety and Reliability) Act 2008.*

Amendment of s 561 (Development applications for referable dams)

Clause 131 amends section 561(2) to remove the requirement that if a water entitlement is required to operate the dam, the development application for the dam must be supported by the chief executive's written consent to the application being made. This is a consequential amendment resulting from the omission of section 264 (Development involving a state resource) from the *Sustainable Planning Act 2009,* to decouple the resource allocation or entitlement process from the development assessment process.