Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Bill 2024

Explanatory Notes

Short title

The short title of the Bill is the Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Bill 2024.

Policy objectives and the reasons for them

The primary objectives of the Bill are to:

1. change the name of the Games Venue and Legacy Delivery Authority to the Games Independent Infrastructure and Coordination Authority (Authority) to improve alignment with the response to the International Olympic Committee's (IOC) Future Host Commission Questionnaire during the bid for the 2032 Olympic and Paralympic Games and make clear that the Authority is independent of government and has a key role in coordinating generational infrastructure for the benefit of Queensland communities;
2. clarify the Authority's role in planning and assessing infrastructure that may be used during the Brisbane 2032 Olympic and Paralympic Games (the Games);
3. require the Authority undertake a review of Games-related infrastructure projects, and any other matters related to Queensland's preparation for the Games as directed, within 100 days;
4. ensure Queensland's regional areas receive legacy benefits from the Games;
5. provide the Authority with an appropriate degree of flexibility in preparing a transport and mobility strategy and games coordination plan, and entering into a funding agreement with the State;
6. ensure the Authority's chairperson is provided latitude in their ability to enter into a memorandum of understanding with Games Delivery Partners;
7. ensure the Authority's board contains an appropriate number of members and regional representation to enable the Authority to carry out its functions effectively;
8. clarify when the President of the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (corporation) Board can attend board meetings of the Authority;
9. streamline the process to appoint the Authority's board of directors, interim chief executive officer and chief executive officer; and
10. clarify that the interim chief executive officer of the Authority has the same power, functions and delegations as the chief executive officer,
11. 13. repeal the *Path to Treaty Act 2023* (Path to Treaty Act) to cease the First Nations Treaty Institute and the Truth-telling and Healing Inquiry.

12. give effect to key work health and safety (WHS) priorities and reduce regulatory burden for businesses under the WHS legislative framework while maintaining suitable protections for the health and safety of Queensland workers; and
13. provide clarity and certainty to all stakeholders about the State Facilitated Development (SFD) process by providing that an SFD declaration may be amended and repealed, consistent with by other assessment pathways under the Planning Act such as Ministerial Infrastructure Designations.
14. give effect to the Government's 100-day commitment to establish an independent Public Sector Commission (PSC) by increasing the independence of the Public Sector Commissioner (the Commissioner).

Brisbane was elected as host of the 2032 Olympic and Paralympic Games by the IOC on 21 July 2021. Under the Olympic Host Contract (host contract), the IOC entrusts the corporation, the State of Queensland, Brisbane City Council, and the Australian Olympic Committee with the planning, organising, financing, and staging of the Games, in accordance with the terms of the host contract and the IOC's Olympic Charter.

The *Brisbane Olympic and Paralympic Games Arrangements Act 2021* (BOPGA Act) established the corporation and its board on 20 December 2021 to undertake and facilitate the organisation, conduct, promotion and commercial and financial management of the Games.

On 6 June 2024, the *Brisbane Olympic and Paralympic Games Arrangements Amendment Act 2024* (BOPGA Amendment Act) amended the BOPGA Act with the primary purpose of establishing the Authority to ensure Queensland's readiness to successfully host and maximise the legacy and benefits from the Games. The Authority commenced operations on 1 July 2024, with an interim chief executive officer appointed in line with the transitional provisions of the BOPGA Act.

The *Brisbane Olympic and Paralympic Games Arrangements Regulation 2024* (BOPGA Regulation) prescribes seven venues, including the Sleeman Sports Complex, the Sunshine Coast Stadium, the Sunshine Coast Indoor Sports Centre, the Sunshine Coast Mountain Bike Centre, the Moreton Bay Indoor Sports Centre, Barlow Park and the Logan Indoor Sports Centre for the Authority to deliver. The BOPGA Regulation also prescribes four villages including the Brisbane Athlete Village, the Gold Coast Athlete Village, the Kooralbyn Satellite Athlete Village and the Sunshine Coast Athlete Village for the Authority to monitor and ensure the delivery of in time for the Games.

The Queensland Government has committed to, within 30 days, appoint an independent infrastructure coordination authority to conduct a comprehensive review and map out infrastructure and transport needs for Queensland and the Games within 100 days (the 100 Day Review). The 100 Day Review is critical to provide certainty of Games-related infrastructure requirements, and to ensure that the Games act as a catalyst for delivering generational infrastructure and economic opportunities that benefit all Queenslanders.

The 100 Day Review aims to confirm that Queensland is investing in the right projects in the right locations and with the right governance, prioritising critical infrastructure that supports connectivity between venues, transport systems, athlete villages, and precincts, and will ensure that proposed and existing infrastructure to be used during the Games aligns with the long-term planning, fiscal responsibility, and legacy goals for Queensland.

Repeal of the *Path to Treaty Act 2023* and related provisions

The First Nations Treaty Institute (the Institute) and the Truth-telling and Healing Inquiry (the Inquiry) were established under the Path to Treaty Act.

The Institute is a statutory body with the function of developing a framework for treaty negotiations and to provide support to Aboriginal peoples and Torres Strait Islander peoples to participate in treaty negotiations with the Queensland Government.

The Inquiry was established for a three-year term to inquire into, and report on, the effects of colonisation on Aboriginal peoples and Torres Strait Islander peoples and the history of Queensland.

The Queensland Government has committed to repeal the *Path to Treaty Act 2023* and cease operations of the Institute and Inquiry. The Government is committed to ending the Institute and Inquiry and refocus on practical solutions to provide First Nations peoples with opportunities and reduce disadvantage. To support this, funding for Path to Treaty will be redirected to measurable actions.

Amendments to the work health and safety framework

Taking photos, videos, measurements and conducting tests

The *Electrical Safety and Other Legislation Amendment Act 2024* (ESOLA Act) came into effect in August 2024. Among other matters, the ESOLA Act implemented recommendations of the 2022 Review of the WHS Act to clarify that health and safety representatives and WHS entry permit holders may, in addition to their existing powers and functions:

- take photos and videos in performing their duties in certain circumstances;
- conduct tests and take measurements in certain circumstances; and
- bring to the workplace and use equipment and materials reasonably necessary to conduct the measurements or tests.

These amendments to the WHS Act had a delayed commencement date of 1 January 2025.

During the Parliamentary Committee and debate on these amendments, concerns were raised about the potential misuse of these rights and/or powers. In particular, the debate raised the need for appropriate privacy safeguards, limitations on how photos or videos can be used, and requirements about the deletion of photos and videos.

Removing the changes made by the ESOLA Act to introduce rights and/or powers for health and safety representatives and WHS entry permit holders to take photos, videos, measurements, and conduct tests in certain circumstances removes the potential for misuse of these powers, and addresses the concerns raised regarding the use and deletion of potentially sensitive photos and videos. Removing these provisions will also ensure the WHS framework remains consistent with the majority of other jurisdictions, and with the position in the model WHS laws.

Notice of entry requirements for WHS entry permit holders

Prior to election, the Government announced it would reintroduce a notice period of at least 24 hours for WHS entry permit holders entering a workplace to inquire into a suspected contravention of the WHS Act or the *Electrical Safety Act 2002* (ES Act).

This change will aide in resolving tensions observed on construction sites regarding entry by WHS entry permit holders, by providing persons conducting a business or undertaking (PCBUs) with sufficient time to respond to WHS entry permit holders seeking to enter a workplace. Furthermore, requiring WHS entry permit holders to provide at least 24 hours' notice to enter a workplace to inquire into a suspected contravention provides consistency with the other types of workplace entry rights under the WHS Act, and also aligns with the entry requirements of the *Fair Work Act 2009* (Cth).

An exception is included so that this notice requirement does not apply in circumstances where a worker is exposed to a serious risk to their health and safety, emanating from an immediate or imminent exposure to a hazard. This exception will ensure there is still an appropriate mechanism to enable WHS entry permit holders to enter a workplace without delay where there is a serious risk to workers which requires urgent attendance.

Work-related violence and aggression is an important and deeply concerning WHS issue facing workplaces, and its impact and seriousness have been historically underestimated. While incidents of work-related violence and aggression will not always meet the threshold of imminent and immediate risk, it should not be ignored that some of these incidents will meet that threshold. This avenue should therefore not be dismissed in providing an exception to allow immediate action and investigation by WHS entry permit holders.

Where a WHS entry permit holder enters a workplace without providing notice (i.e. where there is a serious risk to a worker's health and safety, emanating from an immediate or imminent exposure to a hazard), the WHS entry permit holder must provide a notice to the PCBU and to the person with management or control of the workplace as soon as reasonably practicable after entering the workplace.

Cessation of work

The *Work Health and Safety and Other Legislation Amendment Act 2024* made various amendments to the WHS Act and cease work provisions, including changes to enable a health and safety representative to direct a PCBU to direct workers to cease unsafe work.

Following implementation of these cease work amendments, it has been identified that changes are now required to empower a health and safety representative to issue a cease work direction to a worker. This will:

- clarify that cease work directions made under the WHS Act are decisions solely made by health and safety representatives, rather than an operational decision of the PCBU;
- minimise regulatory burden for employers; and
- reduce complexity for industry and workers.

The requirement for a cease work notice to be written and comply with certain information requirements is retained, as is the ability for a health and safety representative to issue a verbal direction when there is a serious risk that is immediate or imminent. In this instance, as soon as possible after giving a verbal direction, the health and safety representative must give the PCBU a cease work notice, display the notice in a prominent way, and consult with the PCBU to attempt to resolve the matter.

Amendments to the planning framework for State Facilitated Development

Amending or repealing designations for State Facilitated Development

SFD commenced in July 2024 as a new alternative, state-assessed pathway for development that is a priority to the State. Eligible projects must be predominantly for residential development and include at least 15 per cent affordable housing as defined under the Planning Regulation.

The two stage SFD process involves:

- Stage 1 – an applicant lodges a request to declare an SFD, the request is considered, a notice of the proposed declaration is given with a representation period for stakeholders, and the Planning Minister decides whether to declare an SFD; and
- Stage 2 – following declaration of an SFD, the applicant submits a development application for assessment (including notification) and decision by the chief executive (the Director-General of the Department of State Development, Infrastructure and Planning) to approve or refuse the development.

The Planning Act is not expressly clear as to whether a declaration for an SFD may be amended or revoked, unlike the Ministerial Infrastructure Designation process under the Planning Act.

The Bill provides clarity and certainty that the Planning Minister may amend or repeal an SFD declaration, allowing the Planning Minister to respond to changes that may occur during the making or assessment of a declared SFD development application.

Amendments to the *Public Sector Act 2022*

Establishing an independent Public Sector Commission (PSC) is a commitment of the Government's 100-day plan.

Amendments to the *Public Sector Act 2022* (PS Act) are sought to increase the independence of the Public Sector Commissioner (Commissioner). By increasing the Commissioner's independence, the agency the Commissioner leads (being the PSC) should also achieve greater independence.

Achievement of policy objectives

The Bill will achieve its policy objectives by ensuring the Authority has the necessary powers and functions to efficiently and effectively undertake the 100 Day Review, streamlining appointment processes for the Authority's board, interim chief executive officer and chief executive officer and amending the composition of the Authority's board.

The Bill provides an additional function of the Authority to investigate and plan for potential venues and villages, and related infrastructure, for the Games, including, for example, conducting investigations of sites and existing or proposed facilities; and preparing project validation reports for the sites and facilities.

The Bill provides that the Authority must conduct a review of Games-related infrastructure projects and other matters related to Queensland's preparation for delivering the Games as directed by the Minister within 100 days. It is intended that the Authority will have the powers and functions to undertake investigations and planning work for Games-related infrastructure that has not been prescribed by regulation, including that the Authority is able to conduct the 100 Day Review as directed by the Minister and any planning work that results from the outcomes of the 100 Day Review.

The BOPGA Act provides that the Authority must make a transport and mobility strategy and a games coordination plan and must enter into a funding agreement with the State within specific timeframes following establishment. Almost six months has passed since the commencement of the BOPGA Amendment Act and concerns have been raised by the Authority with meeting current legislated timeframes due to the delay to appointing a board. The Bill removes the timeframe requirements on the Authority to prepare a transport and mobility strategy and a games coordination plan, and to enter in a funding agreement to allow the Authority to make these documents when appropriate with a focus on successful Games delivery.

The BOPGA Act requires the chairperson of the Authority's Board to enter into a memorandum of understanding with Games Delivery Partners. The Bill removes this section in the BOPGA Act to ensure the Authority's chairperson is not required to enter into a memorandum of understanding if it is not deemed necessary by the Authority or the relevant third party. Removing this provision will not prevent the Authority from entering into a memorandum of understanding should the need arise to fulfill its functions, and with agreement of the relevant third party.

The BOPGA Act provides that the Authority must, in performing its function, seek to maximise the legacy and benefits, for Queensland, Australia and the Oceania region, of the Games. To emphasise the policy objective of ensuring Queensland's regional areas benefit from the Games, the Bill outlines specific requirements for the Authority, in performing its functions, to ensure the Games deliver legacy benefits for all of Queensland, including regional areas.

The BOPGA Act allows for up to seven people to be appointed to the board of the Authority. The Bill amends the composition of the board to increase its capacity to no more than nine persons. Increasing the Authority's maximum board capacity will help ensure that an adequate number of directors with relevant experience across the various aspects of the Games can be accommodated while not negatively impacting the board's ability to function efficiently and effectively.

The BOPGA Act does not currently specify a requirement for regional representation on the Authority's board. To support the Authority in performing its functions, including the specific requirement for the Authority to ensure the Games deliver legacy benefits for regional areas, the Bill provides that at least one director of the Authority's board must be a person who the Minister considers represents the interests of a regional area. Requiring regional representation on the Authority's board will also help ensure that regional Queensland communities' interests in the Games are appropriately represented.

The President of the corporation's board can attend meetings of the Authority's board. The Bill clarifies that the President of the corporation's board may attend meetings upon invitation by the chairperson. This will ensure that the Authority's board can benefit from the involvement of the President of the corporation's board, while also having a necessary level of discretion in how the Authority conducts its board meetings. This amendment is also intended to complement and align with section 53BQ of the Act, which gives the board a general power to invite relevant observers to its meetings from time to time, subject to any arrangements it considers appropriate.

The Bill also removes certain requirements on the Minister and the board of the Authority to consult GDPs about the appointment of the interim chief executive officer or chief executive officer of the Authority, respectively. This amendment aims to streamline the appointment process of both the interim chief executive officer and the chief executive officer. The absence of explicitly requiring the Minister or the board consult in this circumstance, does not limit the Minister's or the board's ability to consult on the Authority's interim chief executive officer or chief executive officer, respectively.

The BOPGA Act currently provides that the Minister can only nominate a person for appointment as a director of the Authority's board of directors to the Governor in Council for approval if the person has been deemed suitable by a selection panel comprising nine chief executives from Games Delivery Partners. The current appointment process to the Authority's board inhibits the board from being appointed within 30 days as committed to by the Government.

To ensure timely commencement of the 100 Day Review and deliver on the Government's election commitment, the Bill amends the BOPGA Act to streamline the appointment process for the Authority's board by removing the selection panel. In doing so, the Bill enables the proposed board directors (including the Chair) to be recommended by the Minister to the Governor in Council for appointment.

The Bill clarifies the interim chief executive officers' power, functions and delegations to remove any doubt as to whether the interim chief executive officer can conduct their role in the same manner as the chief executive officer under the BOPGA Act. This amendment will assist the Authority in the application of the interim chief executive officer's powers, functions and delegations.

Repeal of the *Path to Treaty Act 2023* and related provisions

The Bill will repeal the Path to Treaty Act, which will abolish the Institute and the Inquiry.

Transitional provisions will be inserted into the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984* (JLOM Act) for:

- the State to take responsibility for any outstanding business of the Institute, including transfer of assets and liabilities, records and documents, contracts and other agreements and legal proceedings;
- the transfer of records and documents from the Inquiry to the State;
- the saving of provisions relating to protection from civil liability and confidentiality; and
- a transitional regulation-making power to resolve any unforeseen issues arising from the repeal.

Amendments to the work health and safety framework

To achieve the Bill's policy objectives in respect of key WHS priorities and reducing regulatory burden on businesses while maintaining suitable health and safety protections under the WHS legislative framework, the Bill will amend the WHS Act and ESOLA Act to:

- omit recently introduced provisions to allow WHS entry permit holders and health and safety representatives to take photos, videos, measurements and conduct tests before these provisions come into effect on 1 January 2025;
- reintroduce the requirement for WHS entry permit holders to provide at least 24 hours' notice before entering a workplace to investigate a suspected contravention of the WHS Act or ES Act, except in circumstances where there is an immediate or imminent risk to a worker's health and safety; and
- clarify that health and safety representatives can issue cease work notices to workers and not to employers.

Amendments to the planning framework for State Facilitated Development

The Bill seeks to clarify that the Planning Minister may amend or revoke a declaration made for an SFD under section 106 of the Planning Act, consistent with assessment pathways under the Planning Act like the Ministerial Infrastructure Designation process.

The provisions enable the Planning Minister to respond to new information or circumstances emerging after a SFD is declared and provide certainty and clarity to stakeholders about the steps that must be taken in those circumstances.

These policy objectives are broadly achieved by:

- clarifying that the Planning Minister may amend or repeal a declaration made for SFD under the Planning Act;
- providing that the Planning Minister may request an amendment to a development application made to the chief executive for SFD declared development, consistent with an amended declaration, and that the application lapses if the change is not made;
- providing for procedural matters associated with the Planning Minister's decision to amend or revoke an SFD under the Planning Act, for example, the giving of notices and the effect of the notice; and
- clarifying that declaratory proceedings may be started under *Planning and Environment Court Act 2016* (PEC Act*)* if there is uncertainty about how to administer a development application that is no longer declared as SFD and may progress through the usual assessment pathway.

Amendments to the *Public Sector Act 2022*

The Bill seeks to amend provisions related to the appointment and termination of the Commissioner.

In particular, the Bill seeks to limit the ways in which the Commissioner's appointment can be unilaterally terminated so that the Commissioner can only be removed for specific grounds of misconduct; incompetence; or physical or mental incapacity. Currently under the PS Act the Commissioner can be unilaterally terminated without grounds.

The Bill also seeks to remove the legislative requirement for the Commissioner to enter into a written contract of employment with the Minister (being the Premier). Currently, the Commissioner holds office on the terms and conditions not provided for in the PS Act that are approved by the Minister.

Removing the requirement for the Commissioner to enter into a contract will remove the ability to unilaterally terminate the Commissioner's engagement without reason. This will support the Commissioner in providing advice and performing their functions independently, without fear of reprisal.

The amendments are considered the most effective and least regulatory burdensome way of achieving independence for the PSC. This is a proportionate response to establish and independent PSC.

Alternative ways of achieving policy objectives

Legislation is the most suitable approach to achieve the Government's commitment to, within 30 days, appoint an independent infrastructure coordination authority to conduct a review and map out infrastructure and transport needs for Queensland and the Games within 100 days.

In amending the legislation, the primary objectives of the Bill will be met as the amendments relate to existing statutory roles and responsibilities of the Authority, already established under the BOPGA Act.

In respect of the amendments to the WHS Act and the ESOLA Act and the repeal of the Path to Treaty Act, the policy objectives can only be achieved by legislative amendment.

In respect of the amendments to the WHS Act and ESOLA Act, the policy objectives can only be achieved by legislative amendment.

In respect of the amendments to the Planning Act and PEC Act, the policy objectives are best achieved by legislative amendment.

The proposed amendments are considered the best option to provide certainty and clarity, given that there may be different legal interpretations of the *Acts Interpretation Act 1954* about whether the powers to make a decision include powers to repeal or amend the decision under the Planning Act.

In respect of the amendments to the PS Act, as the PSC is established under, and governed by, legislation, non-legislative approaches to strengthen independence will not alter prescribed arrangements and are therefore considered inadequate.

Another way in which the PSC could be established as independent from Government would be to amend the PS Act to alter the status of the PSC so that it no longer forms part of the public sector. This approach was not pursued on the basis that is has substantial financial, administrative and regulatory implications and is not proportionate to the issue identified.

Additionally, given the role and functions of the PSC to provide system leadership and stewardship of the public sector, it would be inappropriate for the PSC, including its staff, to not form part of the public sector that it leads.

Estimated cost for government implementation

No financial impacts are anticipated from the BOPGA Act amendments. It is expected that the Authority will accommodate the costs of the 100 Day Review within its existing budget for 2024-25. Existing costs in relation to the Authority's operations and other programs of work (not associated with Games-related infrastructure) are not anticipated to be impacted by the 100 Day Review, however, any changes to the work of the Authority resulting from the outcomes of the 100 Day Review will be evaluated as necessary at the conclusion of the 100 Day Review.

Any costs associated with the repeal of the Path to Treaty Act will be met within existing budgets.

No financial impacts are anticipated for the WHS Act and ESOLA Act amendments.

No financial impacts are anticipated for the Planning Act PEC Act amendments. It is anticipated that the costs of administrating the changes (amending or repealing an SFD declaration) would be met within usual departmental resourcing.

No financial impacts are anticipated for the PS Act amendments. Noting that a transitional arrangement will preserve the Commissioner's existing contractual arrangements (except the ability to terminate without reason which usually attracts compensation), eliminating the ability to unilaterally terminate a Commissioner without grounds will limit the use of severance arrangements and therefore compensation payable.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles under the *Legislative Standards Act 1992* (LSA). Potential breaches of fundamental legislative principles are addressed below.

Retrospective application of provision

The chief executive officer is provided with necessary powers and functions to fulfill its responsibilities under the BOPGA Act. Clause 21 amends section 63 to provide clarity that the interim chief executive officer has the functions, and may exercise the powers, of the chief executive officer and that a reference to the chief executive officer of the Authority in section 53AH or 53CK or chapter 4 of the BOPGA Act includes a reference to the interim chief executive officer.

Clause 23 retrospectively applies the amended section 63 to clarify that the application of the chief executive officer's power to the interim chief executive officer and consequently, the exercising of those powers by the interim chief executive officer has always been permissible. Clause 23 has the potential to breach fundamental legislative principles in that it may adversely affect rights and liberties, or impose obligations, retrospectively (LSA, section 4(3)(g)).

The intent of clause 21 is to remove any doubt as to whether the interim chief executive officer can, and has always been able to, conduct their role in the same manner as the chief executive officer under the BOPGA Act. It is not intended to apply any additional delegation powers on the interim chief executive officer that were not already granted to the interim chief executive officer. As such, it is not considered that this clause breaches the fundamental legislative principle that the delegation of administrate power is only allowed in appropriate cases and to appropriate person (LSA, section 4(3)(c)) since this delegation of administrative power has always been considered to apply to the interim chief executive officer and was appropriately considered under the BOPGA Amendment Act.

Clause 23 retrospectively applies the provision, however in doing so, it does not adversely affect rights and liberties or impose obligations as it serves to clarify the interim chief executive officer's existing power, which remain unchanged since the commencement of the BOPGA Amendment Act.

Repeal of the *Path to Treaty Act 2023* and related provisions

The Bill is potentially inconsistent with the fundamental legislative principle to observe Aboriginal tradition and Island custom, outlined in section 4(3)(j) of the LSA, recognising the significance of consulting with Aboriginal and Torres Strait Islander people and representative bodies on legislation relevant to Aboriginal and Torres Strait Islander people.

While this consultation has not occurred, the Government communicated its intention to repeal the Act and not proceed with the Treaty and Truth-telling process prior to the 2024 Queensland Election.

Amendments to the work health and safety framework

Legislation must have sufficient regard to the rights and liberties of individuals

Section 117 of the WHS Act provides that a WHS entry permit holder may enter a workplace to inquire into a suspected contravention of the WHS Act or ES Act. Currently, under section 119 of the WHS Act, WHS entry permit holders are not required to provide notice to the relevant PCBU or to the person with management or control of the workplace before entry. Generally, notice must be given as soon as practicable after entering the workplace.

The Bill amends section 119 of the WHS Act to require that, generally, a WHS entry permit holder must give notice of entry at least 24 hours before entering the workplace. This amendment potentially engages with the rights and liberties of individuals (LSA, section 4(3)) in potentially diminishing the rights for WHS entry permit holders and protections for workers by removing the 'surprise' element of the entry by the WHS entry permit holder. However, it is noted that the requirement for 24 hours' notice provides greater rights and liberties for employers in having more certainty and awareness regarding who is entering their businesses, and the reason(s) for entry. This potential diminution has been balanced, however, as the Bill ensures that WHS entry permit holders retain the right to immediately enter a workplace without prior notice in circumstances where a relevant worker is exposed to a serious risk to their health and safety, emanating from an immediate or imminent exposure to a hazard.

Accordingly, these amendments are considered to be justified on the basis that the amendment to section 119 has sufficient regard to the rights and liberties of individuals by achieving an improved balance between the rights and liberties of employers, workers, and union officials and achieving the objects of the WHS Act.

Amendments to the planning framework for State Facilitated Development

The Bill could potentially engage the fundamental legislative principle that legislation must have sufficient regard to the rights and liberties of individuals, in particular as to whether the amendments:

- "make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review"; or
- "are consistent with principles of natural justice".

However, it is considered the proposed amendments are consistent with fundamental legislative principles for the following reasons:

The Bill will give the Planning Minister a broad power to amend or repeal an SFD Declaration. At the outset, while there are no merits appeal rights, the Planning Minister's powers will remain subject to the Supreme Court's supervisory jurisdiction. This is considered appropriate in circumstances where the powers are essentially "procedural" in nature. Amending or repealing a SFD declaration does not revoke any operative approval; it merely affects the process by which an application will be administered. Further, the Bill provides that, following any repeal, the previously existing state of affairs (i.e. prior to the SFD declaration) are restored.

Section 4(3)(g) of the LSA is not engaged by the amendments. The process for administering a relevant application may be changed retrospectively by a repeal or amendment of the SFD declaration. However, any rights or obligations retrospectively will not be altered. For example, the Bill does not allow the Minister to invalidate any approval given by the chief executive or local government following a SFD declaration.

Where the amendment or repeal relates to a SFD declaration for a proposed development application or proposed change application, for which no development application has been made to the chief executive, the Bill will enable the Minister to exercise that power without consultation. Because, in such circumstances, there is no "live" application benefiting from the SFD declaration, the impact on rights and liberties is minimal. It is also important in such circumstances that the Minister be able to act quickly, to reduce the risk of an applicant incurring further cost in preparing an application in reliance on the SFD declaration.

Otherwise, the Bill requires a minimum 5 business day period within which an applicant or decision-maker may make submissions about the proposed amendment or repeal. While that timeframe is short, it is a minimum timeframe and consistent with natural justice, given the procedural nature of a SFD declaration.

Amendments to the *Public Sector Act 2022*

The amendments have sufficient regard for the Parliament as they do not allow the delegation of legislative power or authorise the amendment of an Act and only permit the amendment of the PS Act by this Bill once enacted.

On this basis these amendments are consistent with fundamental legislative principles.

Retrospective application of provision

The Bill preserves existing arrangements for the current Commissioner to ensure conditions and entitlements are maintained. However, the ability to terminate the Commissioner without grounds is not preserved. Through enactment of the Bill, the Commissioner will only be able to be unilaterally terminated for the limited grounds provided for by the Act. This arrangement will apply from commencement of the amendments.

By removing the ability to unilaterally terminate the current Commissioner without grounds, the Bill introduces an element of retrospectivity to arrangements that govern the contract of employment the Commissioner entered into when appointed.

However, as the amendments prevent the Commissioner from being removed without reason under the current appointment and contract of employment, the amendments are beneficial to the Commissioner by providing a protection and do not adversely affect an existing right. This does not prevent the current Commissioner and the Minister from mutually agreeing to terminate the contract and any terms of the contract for that purpose will stand.

On this basis, applying the limited grounds for termination to the current Commissioner's appointment and contract is considered consistent with fundamental legislative principles.

Consultation

A consultation draft of the Bill was shared with Queensland Government agencies. Restricted timeframes and confidentiality requirements meant that broader consultation on the Bill was not appropriate.

A consultation draft of the Bill was shared with Queensland Government central agencies of Department of the Premier and Cabinet and Queensland Treasury. Restricted timeframes and confidentiality requirements meant that broader consultation on the Bill was not achievable.
Amendments to the Planning Act providing for the Planning Minister to amend or revoke an SFD declaration are intended to clarify the decision-making powers available to the Planning Minister, given these are not expressly stated in legislation. Consultation with external stakeholders was not undertaken on this basis.

Amendments to the PS Act relate to the internal management of the public sector and do not impose costs on businesses or the community or increase their regulatory burden.

Given the amendments have no external impact, regulatory impact analysis is not necessary and community consultation has not occurred.

Consistency with legislation of other jurisdictions

The Bill amends the BOPGA Act, Planning Act and PEC Act which are specific to the State of Queensland and is not uniform with any current legislation of the Commonwealth or another State or Territory.

Amendments to the work health and safety framework

The Bill is specific to the State of Queensland, and its consistency with comparable legislation introduced by other jurisdictions is discussed below.

Notice of entry requirements for WHS entry permit holders

The Bill more closely aligns Queensland's entry notice requirements with those included within the *Fair Work Act 2009* (Cth), which requires entry permit holders to give at least 24 hours' notice before exercising an entry right, including for investigating a suspected contravention of the *Fair Work Act 2009* (Cth).

Other WHS jurisdictions generally only require an entry permit holder to issue a notice after entering a workplace. The proposed amendment will allow a Queensland WHS entry permit holder to still enter a workplace without first providing notice in circumstances where a worker is exposed to a serious risk to their health and safety, emanating from an immediate or imminent exposure to a hazard. In this way, Queensland's framework maintains appropriate parity with other jurisdictions regarding WHS rights of entry.

Taking photos, videos, measurements and conducting tests

Most other jurisdictions, with the exception of South Australia, Victoria and, to a limited extent, the Australian Capital Territory, do not include specific provisions in their respective legislation regarding health and safety representatives and WHS entry permit holders taking photos, videos, measurements and conducting tests in performing their duties. The Bill ensures Queensland's WHS framework remains consistent with the majority of other jurisdictions, and with the position in the model WHS laws.

Cessation of work

No other jurisdictions enable health and safety representatives to direct PCBUs to direct workers to cease work. Instead, consistent with the model WHS laws, all jurisdictions' respective frameworks only provide that a health and safety representative may direct workers to cease unsafe work. The Bill ensures Queensland's WHS framework more closely aligns with the majority of other jurisdictions, and with the position in the model WHS laws. However, Queensland's framework will retain a minor distinction by maintaining the requirement that a written cease notice be given to a PCBU and published in a prominent location for the benefit of employers and workers.

Amendments to the *Public Sector Act 2022*

In developing these amendments, termination arrangements for commissioner equivalents in other jurisdictions have been considered (noting there does not appear to be a commissioner equivalent in Tasmania).

Except for the Northern Territory, where the Administrator has absolute discretion to terminate the commissioner's appointment at any time, in other jurisdictions, generally commissioner equivalents may be terminated or removed from office subject to conditions such as misbehaviour, incompetence, or physical or mental incapacity.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 states that, when enacted, the Bill will be cited as the *Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Act 2024*.

Part 2 Amendment of Brisbane Olympic and Paralympic Games Arrangements Act 2021

Act amended

Clause 2 states that this part amends the *Brisbane Olympic and Paralympic Games Arrangements Act 2021* (BOPGA Act).

Amendment of long title

Clause 3 amends the long title of the BOPGA Act to replace 'a games venue and legacy delivery authority' with 'an independent games infrastructure and coordination authority'.

Amendment of s 3 (Main purpose of Act)

Clause 4 amends section 3(b) to rename 'the Games Venue and Legacy Delivery Authority' to 'the Games Independent Infrastructure and Coordination Authority'.

Replacement of ch 3 heading (Games Venue and Legacy Delivery Authority)

Clause 5 replaces the heading of chapter 3 (Games Venue and Legacy Delivery Authority) with the new name of the Authority, being the Games Independent Infrastructure and Coordination Authority.

Amendment of s 53AA (Establishment)

Clause 6 amends section 53AA to replace 'Games Venue and Legacy Delivery Authority' with 'Games Independent Infrastructure and Coordination Authority' to reflect the Authority's new name.

Amendment of s 53AD (Functions)

Clause 7 amends sections 53AD(1) to insert a new subsection before section 53AD(1)(a) to extent the scope of the Authority's functions to investigate and plan for potential venues and villages, and related infrastructure, for the Games, including, for example, conducting investigations of sites and existing or proposed facilities; and preparing project validation reports for sites and facilities. Section 53AD(1)(aa) to (c) is renumbered as 53AD(1)(a) to (d).

Insertion of new s 53ADA

Clause 8 inserts new section 53ADA after section 53AD to require that the Authority must, within 100 days after the commencement, conduct a review of Games-related infrastructure projects and other matters related to Queensland's preparation for delivering the Games as directed by the Minister. This section also requires the Minister to, as soon as practicable after the commencement, give the Authority a direction under section 55(1) to conduct the review. In this section, Games-related infrastructure projects mean infrastructure projects related to the Games, including projects for any of the following sites or facilities that are or may become new, upgraded or temporary venues, sites of facilities that are or may become villages, or transport infrastructure related to a site or facility mentioned in paragraph (a) or (b).

Amendment of s 53AE (Requirements for performance of functions)

Clause 9 inserts a new subsection after 53AE(a) to require that the Authority, in performing its functions, ensures the Games deliver legacy benefits for all of Queensland, including regional areas and renumbers section 53AE(aa) to (e) as 53AE(b) to (f).

Amendment of s 53AI (Requirement to prepare transport and mobility strategy)

Clause 10 amends section 53AI(1) to remove the timeframe associated with the preparation of a transport and mobility strategy. The clause also replaces a reference to 'section 53AE(b)' with 'section 53AE(c)' to reflect the renumbering of provisions in clause 9.

Amendment of s 53AM (Requirement to prepare games coordination plan)

Clause 11 amends section 53AM(1) to remove the timeframe associated with the preparation of a games coordination plan. The clause also replaces a reference to 'section 53AD(c)' with 'section 53AD(d)' to reflect the renumbering of provisions in clause 7.

Omission of s 53AN (Memorandum of understanding)

Clause 12 omits section 53AN to remove the requirement for the chairperson of the Authority's board to enter into a memorandum of understanding with games delivery partners.

Amendment of s 53BF (Composition)

Clause 13 amends section 53BF(1) to allow for the board to consist of not more than nine persons, increasing the board's capacity by two persons.

The clause also inserts a new subsection under section 53BF so that at least one of the directors of the Authority's board must be a person who the Minister considers represents the interest of a regional area and requires that a director nominated under this condition must state that this is the case to make it clear whether this subsection is satisfied or not.

The limitations on the Minister, requiring that nominations of the Authority's board may only be made if a person is stated to be preferred or suitable as a director by the selection panel is removed. Section 53BF(1A) to (5) is renumbered as 53BF(2) to (7).

Amendment of s 53BG (Chairperson)

Clause 14 omits section 53BG(2) to remove the selection panel and renumbers section 53BG(3) to (6) as 53BG(2) to (5).

Omission of s 53BH (Selection panel for nomination of directors and chairperson)

Clause 15 omits section 53BH to remove the selection panel for nomination of directors and a chairperson.

Amendment of s 53BI (Role of president of board of corporation)

Clause 16 amends section 53BI(2) and section 53BI(3)(a) so that the president of the board of the corporation may only attend a board meeting if invited by the chairperson. The clause renumbers section 53BI(2A) to (5) as 53BI(3) to (6) and replaces a reference to 'Subsection (4)' with 'Subsection (5)' to reflect the renumbering of provisions.

Amendment of s 53BL (Vacancy in office)

Clause 17 replaces a reference to 'section 53BF(3)' with 'section 53BF(4)' to reflect the renumbering of provisions in clause 13.

Amendment of s 53CD (Appointment)

Clause 18 amends section 53CD(1) to remove the requirement that the Authority's board must consult games delivery partners before appointing a chief executive officer.

Amendment of s 54A (Funding agreements)

Clause 19 amends section 54A(1) to remove the note instructing to see also section 64, as section 64 is omitted in clause 21.

Insertion of new ch 5, pt 1, heading (Transitional provisions for Brisbane Olympic and Paralympic Games Arrangements Amendment Act 2024)

Clause 20 inserts a new heading to clarify this part of the transitional provisions are in reference to the *Brisbane Olympic and Paralympic Games Arrangements Amendment Act 2024*.

Amendment of s 63 (Interim chief executive officer)

Clause 21 removes the requirement on the Minister to consult games delivery partners before appointing an interim chief executive officer of the Authority. The clause also replaces section 63(4) to clarify the nature of the interim chief executive officer's functions and powers and makes clear that a reference to the chief executive officer of the Authority in section 53AH or 53CK or chapter 4 of the BOPGA Act includes a reference to the interim chief executive officer.

Omission of s 64 (Requirement for authority to enter into funding agreement)

Clause 22 omits section 64 to remove the timeframe associated with when the Authority must enter into a funding agreement with the Minister as required by section 54A.

Insertion of new ch 5, pt 2 (Transitional provisions for Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Act 2024)

Clause 23 inserts a new Part 2 to outline the transitional provisions related to the Bill. New section 64 (Change in authority's name and references to Games Venue and Legacy Delivery Authority) clarifies that the amendment of section 53AA by the Bill serves to change the Authority's name, not to establish a new authority. It also clarifies that, in an instrument, a reference to the Games Venue and Legacy Delivery Authority may, if the context permits, be taken to be a reference to the Games Independent Infrastructure and Coordination Authority.

New section 65 (Application of amended s 63 to interim chief executive officer of authority) retrospectively applies the amended section 63 to make clear that the interim chief executive officer who held office under former section 63 should be considered to have always had the functions, and been able to exercise the powers, of the chief executive officer as provided for in amended section 63.

Amendment to sch 1 (Dictionary)

Clause 24 inserts a definition of regional area to mean a part of the State outside of south-east Queensland.

Part 3 Repeal of Path to Treaty Act 2023 and related provisions

Division 1 Amendment of Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984

Act amended

Clause 25 states that this division amends the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984.*

Insertion of new pt13

Clause 26 provides for the insertion of a new Part 13.

Part 13 Repeal and transitional provisions for Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Act 2024

Division 1 Repeal of Path to Treaty Act 2023

New section 100 repeals the *Path to Treaty Act 2023.*

Division 2 Transitional provisions

New section 101 states that terms not defined under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, have the meaning they had under the repealed *Path to Treaty Act 2023*.

New section 102 abolishes the Institute and the Institute Council. It provides that each member of the Institute Council goes out of office and that there is no compensation payable as a result. Subsection (3) clarifies that this does not limit or otherwise affect a member's right to a benefit or entitlement that may have accrued before they went out of office.

New section 103 states that the State is the successor in law of the Institute.

New section 104 provides that the assets and liabilities of the Institute immediately before it was abolished, become assets and liabilities of the State, held in the department.

New section 105 provides that the records and other documents of the Institute immediately before it was abolished become records and documents of the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism.

New section 106
In combination, subsections (1) and (2) provide that upon the abolition of the Institute, the State will become a party to any contracts, agreements, undertakings or arrangements to which the Institute may have been a party. Where an instrument may have applied to the Institute, that instrument will now apply to the State.

Without limiting subsection (2), subsection (3)(a) provides that any rights, title, interest or liability of the Institute in arising under or relating to any contracts, agreements, undertakings, arrangements or instruments is a right, title, interest or liability of the State.

Without limiting subsection (2), subsection (3)(b) provides that any current instrument, including a benefit or right provided by the contract, agreement, undertaking, arrangement or instrument, given to, by or in favour of the Institute before its abolition is taken to have been given to, by or in favour of the State.

Without limiting subsection (2), subsection (3)(c) provides that any applications relating to contracts, agreements, undertakings, arrangements or instruments made in the name of the Institute before its abolition is taken to have been made in the name of the State.

Without limiting subsection (2), subsection 3(d) provides that any current instruments under which an amount is, or may become, payable to or by the Institute is taken to be an instrument under which the amount is, or may become, payable to or by the State in the way the amount was, or might have become, payable to or by the Institute.

Without limiting subsection (2), subsection 3(e) provides that a current instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by the Institute is taken to be an instrument under which property is, or may become liable to be, transferred, conveyed or assigned to or by the State in the way the property was, or might have become, liable to be transferred, conveyed or assigned to or by the Institute.

New section 107 provides that any proceedings that could have been started by or against the Institute (before its abolition) within a particular period may be started by or against the State within the period.

New section 108(1) provides that the State will become a party to any proceedings to which the Institute was a party and which has not yet ended upon its abolition. New section 108(2) provides that on the commencement, the State becomes a party to the proceeding in place of the Institute.

New section 109 abolishes the Inquiry. It provides that each member of the Inquiry goes out of office and upon commencement, becomes entitled to a one-off payment equivalent to 4 weeks of the member's remuneration package. Subsection (3) makes it clear that no compensation is payable to a person because the member of the Inquiry goes out of office, other than the 4 weeks payment. Subsection (4) clarifies that this does not limit or otherwise affect a member's right to a benefit or entitlement that may have accrued before they went out of office.

New section 110 states that upon the abolition of the Inquiry, records and other documents of the Inquiry become records and documents of the Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism.

New subsection 111 (1) cross-refers to section 20A of the *Acts Interpretation Act 1954* which in effect enables certain sections of the *Path to Treaty Act 2023* to be declared to continue beyond its repeal. These sections are:

Section 59, which provides that members of the Institute Council, senior executive officers and members of staff of the Institute do not incur civil liability for acts or omissions made honestly and without negligence. It is intended that the civil liability for acts or omissions during the period of the *Path to Treaty Act 2023* will continue, including in circumstances where the liability becomes definite after the Act is repealed.

New subsection 111(2) states that where section 59(2) provides circumstances in which liability may attach to the Institute, protection and transfer of liability will instead attach to the State.

Section 63, which provides an offence for people to disclose confidential information they may have obtained as Minister, member of the Institute Council, senior executive officer, member of staff or contractor of the Institute or public service employee performing functions under the Act. It is intended that a person will continue to be liable for an offence if they disclose confidential information after the Act is repealed.

Section 89, which provides that a member of the Inquiry does not incur civil liability for acts or omissions made honestly and without negligence. It is intended that the civil liability for acts or omissions during the period of the *Path to Treaty Act 2023* will continue, including in circumstances where the liability becomes definite after the Act is repealed.

Section 91, which provides an offence for people to disclose confidential information they may have obtained as Minister, a member of the Inquiry or public service employee performing functions under the Act. It is intended that a person will continue to be liable for an offence if they disclose confidential information after the Act is repealed.

New section 112 provides that a thing done under this part does not make the State liable for a civil wrong, contravention of a law or breach of contract. Further, the operation of this part will not make the State liable for a breach of any instrument including an instrument prohibiting, restricting or regulating the assignment, novation or transfer or a right or liability or the disclosure or information.

The new section 112 also provides that anything done under this part does not:

- fulfil a condition that:
  - terminates, or allows a person to terminate an instrument or obligation;
  - modifies or allows for a person to modify the operation or effect of an instrument or obligation;
  - allows a person to avoid or enforce an obligation or liability in an instrument;
  - requires a person to perform an obligation in an instrument; or
  - requires any money to be paid before its stated maturity; and
- does not release a surety or other obligee from an obligation.

This section also provides that if giving notice to a person would be necessary to do something under this subdivision, notice is taken to have been given.

Finally, this section provides that reference in this section to the State includes a reference to an employee or agent of the State.

New section 113 provides that a thing may be done under this part despite any other law or instrument.

New section 114 states that in a document, a reference to the Institute or to the Inquiry is, if the context permits, taken to be a reference to the State.

New section 115 provides that a transitional regulation may make provision about a matter necessary to facilitate the doing of anything to achieve the transition from the operation of the repealed Act and for which this part does not provide or sufficiently provide. Such a provision may have retrospective operation but will expire 1 year after commencement of this Act.

Division 2 Other amendments

Clause 27 refers to Schedule 1 containing other legislation amended by this Act.

Schedule 1 Other Amendments

Information Privacy and Other Legislation Amendment Act 2023

Clause 1 omits Schedule 1, part 2, which made amendments to section 12 to the *Path to Treaty Act 2023*.

Public Records Act 2023

Clause 1 omits reference to the Inquiry as an example of an investigative entity.

Clause 2 Due to the omission of the cross-reference to the *Path to Treaty Act 2023* in Clause 3, Clause 2 inserts definitions of Aboriginal law, Aboriginal tradition, Ailan Kastom and Torres Strait Islander law into the *Public Records Act 2023*, using the same terms as previously contained in the *Path to Treaty Act 2023*.

Clause 3 omits the cross reference to the *Path to Treaty Act 2023,* when defining 'culturally sensitive information'.

Part 4 Other amendments

Division 1 Amendment of Electrical Safety and Other Legislation Amendment Act 2024

Act amended

Clause 28 states that this division amends the *Electrical Safety and Other Legislation Amendment Act 2024.*

Omission of s 2 (Commencement)

Clause 29 omits section 2 to remove the commencement date of 1 January 2025 for part 5, division 3 of the *Electrical Safety and Other Legislation Amendment Act 2024*.

Omission of pt 5, div 3 (Amendments commencing on 1 January 2025)

Clause 30 omits part 5, division 3 to remove the amendments to sections 68 and 118 of the *Work Health and Safety Act 2011*, in respect of the powers and functions of health and safety representatives, and the rights that a WHS entry permit holder may exercise while at a workplace, respectively. These amendments had a delayed commencement date of 1 January 2025.

Division 2 Amendment of Planning Act

Act amended

Clause 313 states that this part amends the *Planning Act 2016.*

Amendment of s106B (Definitions for part)

Clause 32 amends the definition of 'application period'

Amendment of s106F (Content of declaration notice)

Clause 33 omits section 106F(1)(g)(i), '(the application period)', as this term is now amended and defined section 106B.

Amendment of s106G (Period of declaration)

Clause 34 amends a note after section 106G after subsection 4.

Insertion of new Chapter 3, part 6A, divisions 2A and 2B

Clause 35 inserts new divisions 2A and 2B.

New division 2A (Amending declarations) includes new sections 106HA and 106JB which provide that a declaration may be amended and provide for the notice of a proposed amendment.

New section 106HA provides that the Planning Minister may amend a declaration for an SFD by notice to the applicant for the relevant application. This section also provides what the amendment notice must state when the amendment takes effect and who a copy of the amendment notice must be given to. The Planning Regulation may prescribe any other matter the amendment notice may state.

This section also clarifies that the without limiting the amendments the Planning Minister may make an amendment may be made to the restarting point or extend or shorten the application period for the relevant application. However, the application period cannot be extended or shortened after the application has ended or state that the application ends before the day the amendment notice is given. If the declaration is amended to change the restarting point for the relevant application, the application starts again from the restarting point in the notice.

New section 106HB(1) provides that before amending the declaration under new section 106HA, the Planning Minister must give notice of the proposed amendment if the relevant application was made to the decision-maker (that is not the chief executive) before the SFD declaration was made; or an application is not substantially different from the relevant application that has been made to the chief executive.

Subsection (2) provides for who the notice must be provided to, what the notice must state and that the Planning Minister must consider any representations about the proposed amendment during the period stated in the notice. The Planning Regulation may prescribe any other matter the notice may state.
Where no application has yet been lodged following a prior declaration, there is no impact on the applicant, so there is no provision for prior notice of the amendment.

Subsection (3) and (4) provide for when the process of administering the application is suspended, stops or restarts.

New division 2B (Revoking declarations) includes new sections 106HC, 106HD, 106HE, 106HF, and 106HG relating to the process and effect of revoking a declaration.

New section 106HC provides that the Planning Minister may revoke an SFD declaration, when the Minister may revoke a declaration and what may be considered, what the revocation notice may state, when the revocation takes effect and who must be given a copy of the revocation notice. The Planning Regulation may prescribe any other matter the revocation notice may state.

New section 106HD provides for the circumstances that the relevant application was made to the decision-maker (e.g. local government) or a development application for the SFD was made to the chief executive within the application period and the application is not substantially different (e.g. to the application made to council).

Before revoking the declaration, the Minister must give notice of the proposed revocation including the reasons for, and the effect of, the proposed revocation. The Minister must consider any representations about the proposed revocation made during the period stated in the notice, which must be at least 5 business days. The Planning Regulation may prescribe any other matter that the notice may state.

If the notice of proposed revocation given by the Minister suspends the process for administering the application until a stated day, the process for administering the application stops on the day the notice is given and restarts on the stated day from the point in the process at which it stopped.

New section 106HE provides for the circumstances where a declaration has been revoked, the relevant application was made to the decision-maker for the application before the declaration was made and if a decision notice has been issued in various circumstances. The decision notice is taken to have been given to the entity by the decision-maker on the day the revocation takes effect.

Similarly, if the applicant had given a deemed approval notice to the decision-maker, the deemed approval takes effect from the day the revocation takes effect.

On the day the revocation notice takes effect, section 106H(2)(a) stops applying in relation to the decision.

Where the decision-maker for the relevant application had given a decision notice prior to the declaration being made, and the appeal period for that decision had expired prior to the declaration being made, and an appeal had not started, the appeal period does not restart. It is not intended to provide a second opportunity to commence proceedings by restarting the appeal period.

However, section 229 (Appeals to the tribunal or P&E Court) is not otherwise affected. It is intended that following the revocation of a SFD declaration, the previously existing state of affairs (i.e. prior to the SFD declaration) are restored as far as possible.

New section 106HF provides for the circumstances where the declaration is revoked, the relevant application was made to the decision-maker for the application before the declaration was made and the decision-maker had not given a decision notice in various circumstances before the revocation declaration was made., The relevant application reverts to the decision-maker for assessment and decision from the point for administering the application that the

Minister identifies in the revocation declaration notice or under parts 1 to 5. The process for administering the relevant application starts again from the point stated in the notice revoking the declaration.

New section 106HG provides that if a SFD declaration in relation to a relevant application is revoked and an application that is not substantially different from the relevant application has been made to the chief executive within the application period for the application, the application made to the chief executive is taken to have been withdrawn.

Insertion of new s 1061AA

Clause 36 provides a new section 106IAA providing that if a declaration is amended under section 106HA, reference to a matter stated in the declaration notice for the relevant application is a reference to the matter as amended.

Insertion of new s 106MA and 106MB

Clause 37 inserts new section 106MA (Request to change an application) and section 106MB (Effect of request under s 106MA) which recognise that an application made to the chief executive under section 106I(b) may need to be amended and provides that the Planning Minister may request the application is changed.

This section provides when the Minister may make the request, what the request must state, that the application may lapse at the end of the period stated in the request, who the Minister must give a copy of the request to and that the request must be published on the department's website. The Planning Regulation may state another matter that the request must state.

When exercising a power under this section, the Minister is not required to give notice, consult or consider any material provided to the Minister in proposing to, or exercising this power.

New section 106MB provides for the effect of the request under section 106MA. The application lapses at the end of a stated reasonable period unless the applicant gives the chief executive the revised application including the changes and written consent of the owner of the premises, if required, in certain circumstances.

If the request states the process for administering the application, the process will start again at the stated point.

To remove any doubt, this section provides that a change to the application does not affect the application or operation of the declaration or this division in relation to the application.

Amendment of sch 2 (Dictionary)

Clause 38 amends the definition of *application period* to align with s106B.

Division 3 Amendment of Planning and Environment Court Act 2016

Act amended

Clause 39 states that this part amendments the *Planning and Environment Court Act 2016*.

Amendment of s 11 (General declaratory jurisdiction)

Clause 40 amends section 11 of the Planning and Environment Court Act to provide for the limited circumstances where a person may start a declaratory proceeding in relation to the effect of the revocation of a relevant application under 106HE, 106HF or 106HG of the Planning Act.

Division 4 Amendment of Public Sector Act 2022

Act amended

Clause 41 provides that this division amends the *Public Sector Act 2022*.

Amendment of s 215

Clause 42 amends section 215 (Remuneration and conditions) by replacing the requirements at subsections (1) and (2) regarding the contract of employment the Commissioner enters into with the Minister (being the Premier) with a new subsection (1) which provides that the Governor in Council decides the remuneration and allowances of the Commissioner.

As the Commissioner no longer enters into a contract of employment with the Minister, the Minister will no longer approve the Commissioner's terms and conditions not provided for in the Act, provided for in subsection (5). These may now be approved by the Governor in Council under renumbered subsection (4).

The clause also replaces the arrangements at subsection (3) which permit the Governor in Council to terminate the Commissioner's contract of employment with a new subsection (2). The new subsection (2) establishes the only grounds under which the Governor in Council may unilaterally remove the Commissioner from office.

The permitted grounds relate to misconduct (which is defined in a new subsection (6)); mental or physical incapacity; or where the Commissioner has neglected duty or incompetently performed the functions of the office.

This clause also inserts a new subsection (5), to exclude chapter 3 part 8, divisions 3 and 5 from applying to the Commissioner. Division 3 contains arrangements for disciplinary action taken against public sector employees and Division 5 establishes arrangements that may be applied when a chief executive reasonably suspects unsatisfactory performance of a public sector employees which may be attributed to mental or physical incapacity. Given the limited permitted grounds for termination of the Commissioner at new subsection (2), subsection (5) is inserted to clarify that other arrangements which may result in termination or ending of employment under the PS Act do not apply to the Commissioner.

The new subsection (2) displaces the requirements at section 25 of the *Acts Interpretation Act 1954* to the extent that this provision permits the removal of the Commissioner by the Governor in Council on limited grounds only, but does not displace the ability to suspend the Commissioner.

Replacement of s 216

Clause 43 amends section 216 (Vacancy in office) to insert a new provision at (a)(iv) to provide that the office of the commissioner becomes vacant if the Commissioner is removed under new section 215(2).

The clause also amends existing subsection (b) to clarify that the office also becomes vacant if the office otherwise becomes vacant under the instrument of appointment or under the terms and conditions mentioned in section 215(4).

The existing ways the office of commissioner becomes vacant (including not being reappointed; resigning by signed notice to the Minister; or becoming a disqualified person) are also maintained under section 216.

Amendment of chr 9, pt 2, hdg

Clause 44 amends the current Part 2 heading of Chapter 9 to reflect that the transitional provisions referred to in that part relate to transitional provisions that were applied when the PS Act was made.

Insertion of new ch 9, pt 3

Clause 45 inserts a new Part 3 (Transitional provisions for Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Act 2024) into Chapter 9. This part relates to transitional provisions required because of the amendments to this PS Act through this Bill. Part 3 includes three new sections, being sections 327 to 329 of the *Public Sector Act 2022*.

New section 327 inserts a definitions section for the Part 3.

This clause provides a definition of current Commissioner.

It also provides definitions to distinguish between ***former*** provisions of the PS Act (those that existed immediately before commencement of the amendments made through this Bill) and ***new*** provisions (those that come into force from the commencement of the amendments made through this Bill).

New section 328 clarifies that the arrangements in new section 215 (Remuneration and conditions of commissioner) apply to a Commissioner appointed after the new section commences; or to the current Commissioner if they are reappointed.

This new section ensures that from commencement of the amendments, the current Commissioner is immediately protected from being dismissed unilaterally; is not subject to additional arrangements under the PS Act which enable termination or ending of employment; and that other conditions and entitlements of the Commissioner are maintained.

This new section also preserves conditions and entitlements that applied to the current Commissioner through the written contract of employment entered with the Minister under former section 215. Preserved arrangements include matters related to remuneration, allowances and conditions of employment which will continue to apply to this Commissioner for the term of the existing contract of employment.

This transitional provision clarifies that the appointment and contract entered into between the current Commissioner and the Minister cannot be terminated without reason through former section 215(3).

This provision also clarifies the following subsections of the new section 215 will apply to the current Commissioner:

- section 215(2) which establishes the limited grounds the Governor in Council may unilaterally remove the commissioner from office
- new section 215(5) which excludes the discipline provisions and mental or physical incapacity provisions at chapter 3 part 8, divisions 3 and 5 from applying to the Commissioner.

Section 328(6) ensures that if the current contract of the Commissioner contains a clause enabling the Commissioner and Minister to terminate the contract by mutual agreement, this term continues to apply for the term of the contact.

New section 329 clarifies that the new arrangements at section 216 (Vacancy in office of commissioner) apply to the current Commissioner and Commissioners appointed after the new section commences.

This new section also clarifies arrangements which apply to vacancy in the office for the current Commissioner, to provide that the office may become vacant in accordance with arrangements included in the Commissioner's contract of employment or under terms and conditions approved by the Minister under former section 215(5).

Division 5 Amendment of Work Health and Safety Act 2011

Act amended

Clause 46 states that this division amends the *Work Health and Safety Act 2011.*

Amendment of s 85 (Health and safety representative may direct that unsafe work cease)

Clause 47 amends section 85(1) to remove the requirement that a health and safety representative must issue a cease work direction to a person conducting a business or undertaking who then directs a worker to cease work in certain circumstances.

Instead, under amended section 85(1), a health and safety representatives may issue a written cease work notice to a worker to direct the worker to cease work, if:

- the worker is in a work group represented by the health and safety representative; and
- the health and safety representative has a reasonable concern that to carry out the work would expose the worker to a serious risk to the worker's health or safety, emanating from an immediate or imminent exposure to a hazard.

Section 85(2)(a) is amended to clarify that the reference to 'a person conducting a business or undertaking' means the person conducting a business or undertaking for whom the worker is carrying out work.

New subsection (2A) requires that, where a health and safety representative gives a cease work notice to a worker to direct the worker to cease work under section 85(1), they must as soon as practicable after giving the cease work notice:

- give the person conducting the business or undertaking a copy of the cease work notice; and
- display, in a prominent way in an area used by the workers who are in the work group, a copy of the cease work notice.

Sections 85(7) and (8) are omitted as a consequential change given the amendment made to section 85(1). Section 85(9) is consequently renumbered to subsection 85(7).

Amendment of s 85A (Contents of cease work notice)

Clause 48 amends section 85A to omit and replace section 85A(d)(i) to require that a cease work notice, in relation to a direction given under section 85(1), state the day and time the notice is given to the worker.

Amendment of s 118 (Rights that may be exercised while at workplace)

Clause 49 amends section 118 to omit and replace the notes under section 118(4) to remove the existing note 1, as this note is no longer required due to clause 50 aligning all notice of entry requirements under sections 119, 120 and 122.

Replacement of s 119 (Notice of entry)

Clause 50 replaces section 119 to provide how a WHS entry permit holder must provide notice of their proposed entry and the suspected contravention of the *Work Health and Safety Act 2011* or *Electrical Safety Act 2002*.

New subsection (1) provides that, before a WHS entry permit holder enters a workplace, they must provide notice to the relevant person conducting a business or undertaking and to the person with management or control of the workplace. New subsection (2) confirms that the particulars and form of this notice must comply with the *Work Health and Safety Regulation 2011*.

New subsection (3) provides that the notice period given must be at least 24 hours, but not more than 14 days, before entering a workplace. The notice must be given during the regular working hours at that workplace.

New subsections (4) and (5) set out the exception for providing at least 24 hours' notice and how the notice must subsequently be provided by a WHS entry permit holder. An entry notice may be given as soon as reasonably practicable after entering a workplace, rather than being given before entry in accordance with section 119(3), only in circumstances where a WHS entry permit holder reasonably believes that a relevant worker is exposed to a serious risk to their health and safety, emanating from an immediate or imminent exposure to a hazard. For the avoidance of doubt, notice is still mandatory for an entry made pursuant to section 119(5).

New subsection (6) confirms that a notice given, or purported to be given, is not invalid only because the notice has a formal defect or irregularity (e.g. a typographical error) or if there is a failure to use the correct name of a person or relevant union provided that there is still sufficient information to identify the person or union.

Insertion of new pt 16, div 10 (Transitional provisions for Work Health and Safety and Other Legislation (Entry Powers) Amendment Act 2024

Clause 51 inserts a new part 16, division 10 into the *Work Health and Safety Act 2011* to include transitional provisions in respect of the amendments made under clauses 47 and 50.

New section 362 provides definitions which apply to the new transitional arrangements being included in part 16 division 10. "Amendment Act" means the *Brisbane Olympic and Paralympic Games Arrangements and Other Legislation Amendment Act 2024*, and "former" for a provision of this Bill, means the provision as in force immediately before the commencement of the Bill.

New section 363 provides that, if, before commencement of the amendment Act, a health and safety representative gave a direction under former section 85(1), then former section 85 continues to apply in relation to the direction as if the amendment under section 47 of the amendment Act had not commenced.

New section 364 provides that, if, before commencement of the amendment Act, a WHS entry permit holder entered a workplace under former section 117, and the WHS entry permit holder had not given notice of the entry and the suspected contravention under former section 119 immediately before the amendment Act commenced, then former section 119 continues to apply in relation to the entry as if section 50 of the amendment Act had not commenced.