

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, April 2024*



Queensland

**No.
A BILL for**

An Act to amend the Acquisition of Land Act 1967, the Economic Development Act 2012, the Environmental Offsets Act 2014, the Planning Act 2016, the Planning and Environment Court Act 2016 and the legislation mentioned in schedule 1 for particular purposes



Queensland

Housing Availability and Affordability (Planning and Other Legislation Amendment) Bill 2024

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2024

A Bill

for

An Act to amend the *Acquisition of Land Act 1967*, the *Economic Development Act 2012*, the *Environmental Offsets Act 2014*, the *Planning Act 2016*, the *Planning and Environment Court Act 2016* and the legislation mentioned in schedule 1 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) parts 2 to 4;
- (b) part 5, division 3;
- (c) part 6, division 3;
- (d) schedule 1, part 2.

Part 2 Amendment of Acquisition of Land Act 1967

3 Act amended

This part amends the *Acquisition of Land Act 1967*.

4 Amendment of sch 2 (Dictionary)

Schedule 2, definition *relevant Minister*—

insert—

- (bb) for land to be taken under the *Planning Act 2016*, section 263A, the Minister

administering chapter 7, part 2 of that Act;
and

Part 3 **Amendment of Economic Development Act 2012**

5 Act amended

This part amends the *Economic Development Act 2012*.

6 Amendment of s 51AO (Change applications under Planning Act for Planning Act approvals)

(1) Section 51AO(1)(a), ‘section 78A(2) or (3)’—

omit, insert—

section 78A(2), (3) or (4)

(2) Section 51AO(3), ‘section 81(2)(d) or (da)’—

omit, insert—

section 81(2)(d), (e) or (f)

(3) Section 51AO(4), definition *relevant planning provisions*,
paragraph (c), after ‘part 6’—

insert—

or 6A

7 Amendment of s 171D (Definitions for part)

Section 171D—

insert—

licensed premises see section 171H(2)(a)(ii).

8 Insertion of new ch 5, pt 3B, div 2, sdiv 1, hdg

Before section 171E—

[s 9]

insert—

Subdivision 1 Preliminary

9 Insertion of new ch 5, pt 3B, div 2, sdiv 2, hdg

Before section 171F—

insert—

Subdivision 2 Applications for temporary use licences

10 Insertion of new s 171FA

After section 171F—

insert—

171FA MEDQ may consult about applications

In considering an application for a temporary use licence made under section 171F, MEDQ may consult with any entity MEDQ considers appropriate.

11 Amendment of s 171H (Notices of decisions)

(1) Section 171H(2)(a)(ii), after ‘relates’—

insert—

(the *licensed premises*)

(2) Section 171H(2)(a)—

insert—

(*ia*) the end of the applicable event period for the applicable event notice to which the licence relates; and

(3) Section 171H(2)(a)(*ia*) to (v)—

renumber as section 171H(2)(a)(*iii*) to (vi).

12 Replacement of s 171I (Period of temporary use licences)

Section 171I—

omit, insert—

171I Period of temporary use licences

- (1) A temporary use licence has effect from the day the notice mentioned in section 171H(1) is given to the applicant (the *licence starting day*) until—
- (a) if neither paragraph (b) nor paragraph (c) applies—the end of the applicable event period for the applicable event notice in effect at the licence starting day; or
 - (b) if the licence is sooner cancelled under section 171JK or 171JM—the day the cancellation takes effect; or
 - (c) if the period of the licence is extended under section 171JD or 171JF—the end of the extended period.

Note—

However, if a temporary use licence is suspended, the licence does not have effect for the period of the suspension. See section 171JM.

- (2) Despite subsection (1), if the applicable event notice is revoked, the temporary use licence stops having effect when the revocation takes effect.

13 Insertion of new ch 5, pt 3B, div 2, sdivs 3–6 and sdiv 7, hdg

After section 171J—

insert—

Subdivision 3 Extension of temporary use licences by application

[s 13]

171JA Application of subdivision

This subdivision applies in relation to a temporary use licence given in relation to the applicable event if the applicable event period for the applicable event notice is extended under the *Planning Act 2016*, section 275F.

171JB Applications to extend temporary use licences

- (1) The holder of the temporary use licence may apply to MEDQ to extend the period for which the temporary use licence has effect under section 171I before the period ends.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) include the matters prescribed by regulation.
- (3) If the period for which the temporary use licence has effect ends before the application is decided, the licence continues in effect under this subsection until the first of the following to happen—
 - (a) MEDQ gives the holder notice of the decision under section 171JE;
 - (b) the application is withdrawn.
- (4) Nothing in subsection (3) prevents the temporary use licence being suspended or cancelled during the period the licence is continued under that subsection.

171JC MEDQ may consult about applications

In considering an application made under section 171JB, MEDQ may consult with any entity MEDQ considers appropriate.

171JD Decisions on applications

- (1) MEDQ must consider an application made under section 171JB and decide—
 - (a) to give or refuse the extension sought; or
 - (b) to extend the period for which the temporary use licence has effect for a period that is different from the extension sought.
- (2) MEDQ must not extend the period for which the temporary use licence has effect beyond the end of the extended applicable event period for the applicable event notice.
- (3) MEDQ may decide to extend the period for which the temporary use licence has effect only if satisfied that, having regard to the nature of the applicable event, there are reasonable grounds for giving the extension.

171JE Notices of decisions

- (1) MEDQ must give the applicant notice of MEDQ's decision.
- (2) If the decision is to extend the period for which the temporary use licence has effect—
 - (a) the notice must state—
 - (i) the day the notice is given; and
 - (ii) the licensed premises for the licence; and
 - (iii) the period for which the licence is extended; and
 - (iv) for a decision mentioned in section 171JD(1)(b)—the reasons for the decision; and

[s 13]

- (b) MEDQ must give a copy of the notice to the relevant local government for the licensed premises for the licence; and
 - (c) the period for which the licence has effect is taken to be extended for the period stated in the notice from the day the notice is given.
- (3) If the decision is to refuse the extension sought, the notice must state the reasons for the decision.

Subdivision 4 Power of MEDQ to extend all temporary use licences

171JF MEDQ may make declaration extending period of all temporary use licences

- (1) This section applies if—
 - (a) the applicable event period for the applicable event notice is extended under the *Planning Act 2016*, section 275F; and
 - (b) MEDQ is satisfied that, having regard to the nature of the applicable event, it is appropriate for temporary use licences given under this division in relation to the event (each a *relevant temporary use licence*) to continue to have effect during the extended applicable event period.
- (2) MEDQ may, by notice published on the department's website, declare that the period of each relevant temporary use licence in effect when the declaration is made is extended until the end of the extended applicable event period.
- (3) Immediately after making the declaration, MEDQ must give notice of the declaration to—

- (a) each holder of a relevant temporary use licence in effect when the declaration is made; and
 - (b) each relevant local government for the part of the State to which the applicable event notice applies.
- (4) If a declaration is made under subsection (2), the period of each relevant temporary use licence in effect when the declaration is made is extended until the end of the extended applicable event period.
- (5) A declaration under subsection (2) is a statutory instrument.

Subdivision 5 Amendment or cancellation of temporary use licences by application

171JG Applications to amend temporary use licences

- (1) The holder of a temporary use licence may apply to MEDQ to amend the licence, including a condition of the licence.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) include the matters prescribed by regulation.

171JH MEDQ may consult about applications

In considering an application made under section 171JG, MEDQ may consult with any entity MEDQ considers appropriate.

[s 13]

171JI Decisions on applications

- (1) MEDQ must consider an application made under section 171JG and decide—
 - (a) to make all or part of the requested amendment to the temporary use licence; or
 - (b) to refuse to make the requested amendment to the temporary use licence.
- (2) MEDQ may decide to amend a temporary use licence only if satisfied that, having regard to the nature of the applicable event in relation to which the licence was given, there are reasonable grounds for making the amendment.

171JJ Notices of decisions

- (1) MEDQ must give the applicant notice of MEDQ's decision.
- (2) If the decision is to make all or part of the requested amendment to the temporary use licence—
 - (a) the notice must state—
 - (i) the day the notice is given; and
 - (ii) the licensed premises for the licence; and
 - (iii) details of the amendment being made; and
 - (iv) for a decision to make part of the requested amendment only—the reasons for the decision; and
 - (b) MEDQ must give a copy of the notice to the relevant local government for the licensed premises for the licence; and

- (c) the licence is taken to be amended in the way stated in the notice from the day the notice is given.
- (3) If the decision is to refuse to make the amendment, the notice must state the reasons for the decision.

171JK Requests to cancel temporary use licences

- (1) The holder of a temporary use licence may ask MEDQ to cancel the licence.
- (2) The request must—
 - (a) be in writing; and
 - (b) state the licensed premises for the temporary use licence.
- (3) On receiving the request, MEDQ must cancel the temporary use licence by giving notice of the cancellation to the holder of the licence.
- (4) The cancellation takes effect on the giving of the notice or a later day stated in the notice.
- (5) MEDQ must give a copy of the notice to the relevant local government for the licensed premises for the temporary use licence.

Subdivision 6 Amendment, suspension or cancellation of temporary use licences by MEDQ

171JL Grounds for MEDQ to amend, suspend or cancel temporary use licences

Each of the following is a ground for amending, suspending or cancelling a temporary use licence—

[s 13]

- (a) MEDQ reasonably believes—
 - (i) the holder of the licence has failed to comply with a condition of the licence; or
 - (ii) the licence was obtained because of false or misleading information; or
 - (iii) public safety has been endangered, or is likely to be endangered, because of the licence;
- (b) MEDQ—
 - (i) becomes aware of an impact on the environment, or the amenity of the locality in which the licensed premises for the licence are located, that is occurring, or is likely to occur, as a result of the relevant change the subject of the licence; and
 - (ii) considers the application for the licence would have been refused if MEDQ had been aware of the impact before giving the licence;
- (c) MEDQ is satisfied that, having regard to the nature of the applicable event in relation to which the licence was given, there are no longer reasonable grounds for the relevant change the subject of the licence applying during the applicable event period for the applicable event notice.

171JM MEDQ may amend, suspend or cancel temporary use licences

- (1) If MEDQ considers a ground exists to amend, suspend or cancel a temporary use licence (the *proposed action*), MEDQ may give the holder of the licence a notice that complies with subsection

- (2).
- (2) The notice must state all of the following—
 - (a) the proposed action;
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is to suspend the temporary use licence—the proposed suspension period;
 - (e) the holder of the licence may, within a reasonable period stated in the notice, make a submission to MEDQ to show why the proposed action should not be taken.
- (3) After MEDQ considers any submissions made by the holder of the temporary use licence within the stated period, MEDQ must decide—
 - (a) to take the proposed action; or
 - (b) not to take any action; or
 - (c) if the proposed action is to amend the licence—to amend the licence in another way having regard to the submissions; or
 - (d) if the proposed action is to suspend the licence—to amend the licence having regard to the submissions; or
 - (e) if the proposed action is to cancel the licence—
 - (i) to suspend the licence for a period; or
 - (ii) to amend the licence having regard to the submissions.
- (4) MEDQ must give the holder of the temporary use licence notice of MEDQ's decision.
- (5) The decision takes effect on—

[s 14]

- (a) the day the notice is given to the holder of the temporary use licence; or
 - (b) a later day stated in the notice.
- (6) If the temporary use licence is amended, on the day the amendment takes effect section 171J applies to the licence as if a reference in the section to a temporary use licence were a reference to the licence as amended.
- (7) If the temporary use licence is suspended, the licence does not have effect for the period of the suspension.
- (8) MEDQ must give a copy of the notice mentioned in subsection (4) to the relevant local government for the licensed premises for the temporary use licence.

Subdivision 7 Delegations

14 Amendment of s 171K (Delegations)

Section 171K, after ‘division’—

insert—

, other than under subdivision 4,

15 Amendment of s 171N (Extension of periods for doing things under Act)

(1) Section 171N—

insert—

- (2A) The extension notice must state that the extension applies in relation to the relevant period in either or both of the following circumstances—
- (a) the relevant period starts during the period the notice is in effect;

(b) the relevant period had started, but not ended, before the notice took effect.

(2) Section 171N—

insert—

(4A) The further extension notice may state in relation to a relevant period whether the relevant period extended by a stated period under the extension notice will be further extended by the further extension notice.

(3) Section 171N(5)(a), ‘subsection (3)(a)’—

omit, insert—

subsection (4)(a)

(4) Section 171N(6)—

omit.

(5) Section 171N(2A) to (8)—

renumber as section 171N(3) to (9).

16 Amendment of s 171O (Suspension of periods for doing things under Act)

(1) Section 171O—

insert—

(2A) The suspension notice must state that the suspension applies in relation to the relevant period in either or both of the following circumstances—

(a) the relevant period starts during the period the notice is in effect;

(b) the relevant period had started, but not ended, before the notice took effect.

(2) Section 171O—

insert—

[s 17]

- (4A) The further suspension notice may state in relation to a relevant period whether the relevant period suspended by a stated period under the suspension notice will be further suspended by the further suspension notice.
- (3) Section 171O(5)(a), ‘subsection (3)(a)’—
omit, insert—
subsection (4)(a)
- (4) Section 171O(6)—
omit.
- (5) Section 171O(2A) to (8)—
renumber as section 171O(3) to (9).

17 Amendment of s 172 (Registers)

- (1) Section 172(1)—
insert—
(r) temporary use licences given by MEDQ under section 171G.
- (2) Section 172—
insert—
(1A) For subsection (1)(r), the register of temporary use licences must, for each temporary use licence given by MEDQ, include all of the following documents or information—
- (a) the day the licence was given;
 - (b) the licensed premises for the licence;
 - (c) details of the relevant change the subject of the licence;
 - (d) a copy of the licence;

- (e) a copy of each notice of a decision to extend the period for which the licence has effect given under section 171JE;
- (f) if the period of the licence is extended under section 171JF—when the extended period ends;
- (g) a copy of each notice of a decision to make all or part of a requested amendment to the licence given under section 171JJ;
- (h) if the licence is cancelled under section 171JK or 171JM—the day the cancellation took effect;
- (i) if the licence is amended under section 171JM—a copy of the notice of the decision to make the amendment given under section 171JM(4);
- (j) if the licence is suspended under section 171JM—the period of the suspension.

18 Amendment of sch 1 (Dictionary)

Schedule 1—

insert—

licensed premises, for chapter 5, part 3B, see section 171H(2)(a)(ii).

Part 4 Amendment of Environmental Offsets Act 2014

19 Act amended

This part amends the *Environmental Offsets Act 2014*.

[s 20]

20 Amendment of sch 2 (Dictionary)

- (1) Schedule 2—

insert—

development approval means a development approval under the Planning Act.

- (2) Schedule 2, definition *administering agency*, paragraph (a)(i), ‘under the Planning Act—’—

omit, insert—

under the Planning Act, other than an approval mentioned in subparagraph (ii)—

- (3) Schedule 2, definition *administering agency*, paragraph (a)—

insert—

(ia) in relation to an offset condition for a development approval for assessable development under the Planning Act that is given or changed by the planning chief executive under chapter 3, part 6A of that Act—

(A) if the planning chief executive has, under schedule 2 of that Act, definition *enforcement authority*, paragraph (b), nominated a person as an enforcement authority for the assessable development—the person; or

(B) otherwise—the planning chief executive; or

- (4) Schedule 2, definition *administering agency*, paragraph (a)(ia) to (iii)—

renumber as paragraph (a)(ii) to (iv).

Part 5 **Amendment of Planning Act 2016**

Division 1 **Preliminary**

21 **Act amended**

This part amends the *Planning Act 2016*.

Division 2 **Amendments commencing on assent**

22 **Amendment of s 17 (Minister’s guidelines and rules)**

(1) Section 17(2), ‘Sections 10 and 11 apply’—

omit, insert—

Section 10 applies

(2) Section 17—

insert—

(2A) However, section 10(6) applies as if a reference in section 10(6)(a)(i) to the day when the instrument was made were a reference to the day the guidelines or rules, or the guidelines or rules as amended, took effect.

(2B) Also, the Minister must comply with section 10(6), as applied under subsection (3), immediately after a regulation prescribes the guidelines or rules or the amended guidelines or rules.

(2C) In addition, if an amendment of the guidelines or rules is a minor amendment, section 10 does not apply to the amendment.

(2D) If the Minister makes a minor amendment of the

[s 23]

guidelines or rules, immediately after a regulation prescribes the amended guidelines or rules, the Minister must—

- (a) publish a public notice that states—
 - (i) the day when the amendment took effect; and
 - (ii) where a copy of the amended guidelines or rules may be inspected or purchased; and
- (b) give a copy of the public notice, and the amended guidelines or rules, to each affected local government.

(3) Section 17(3)—

omit, insert—

(3) The guidelines and rules, or the amended guidelines and rules, start to have effect when prescribed by regulation.

(4) In this section—

minor amendment, of the guidelines or rules, has the meaning given by section 11(3) as if the guidelines or rules were a State planning instrument.

(4) Section 17(2A) to (4)—

renumber as section 17(3) to (8).

23 Amendment of s 18 (Making or amending planning schemes)

Section 18(5)(b)(i) and (ii), from ‘public notice’ to ‘local government area’—

omit, insert—

last public notice is published

24 Amendment of s 36 (Criteria for making or amending designations)

(1) Section 36(3)—

insert—

Note—

See section 42B for the process for making or amending the guidelines.

(2) Section 36(6)—

omit.

25 Amendment of s 37 (Process for making or amending designation)

(1) Section 37(7)—

omit.

(2) Section 37(8), definition *designation process rules*—

insert—

Note—

See section 42B for the process for making or amending the rules.

(3) Section 37(8)—

renumber as section 37(7).

26 Insertion of new s 42B

After section 42A—

insert—

42B Process for making or amending guidelines under s 36 or the designation process rules

(1) Section 10 applies to the making or amendment of—

(a) the guidelines under section 36(3); or

[s 26]

- (b) the designation process rules under section 37.
- (2) However, section 10(6) applies as if a reference in section 10(6)(a)(i) to the day when the instrument was made were a reference to the day the guidelines or designation process rules, or the guidelines or rules as amended, took effect.
- (3) Also, the Minister must comply with section 10(6), as applied under subsection (2), immediately after a regulation prescribes the guidelines or designation process rules or the amended guidelines or rules.
- (4) In addition, if an amendment of the guidelines or designation process rules is a minor amendment, section 10 does not apply to the amendment.
- (5) If the Minister makes a minor amendment of the guidelines or designation process rules, immediately after a regulation prescribes the amended guidelines or rules, the Minister must—
 - (a) publish a public notice that states—
 - (i) the day when the amendment took effect; and
 - (ii) where a copy of the amended guidelines or rules may be inspected or purchased; and
 - (b) give a copy of the public notice, and the amended guidelines or rules, to each affected local government.
- (6) The guidelines or designation process rules, or the amended guidelines or rules, start to have effect when prescribed by regulation.
- (7) In this section—

minor amendment, of the guidelines under section 36(3) or the designation process rules under section 37, has the meaning given by

section 11(3) as if the guidelines or rules were a State planning instrument.

27 Insertion of new ch 3, pt 1, div 1, hdg

Before section 43—

insert—

**Division 1 Instruments and
 categories**

28 Insertion of new ch 3, pt 1, div 2

Chapter 3, part 1—

insert—

**Division 2 Temporary accepted
 development**

Subdivision 1 Declarations

**46A Regulation may declare temporary accepted
 development**

A regulation may declare that a particular material change of use of premises is temporary accepted development for a stated period.

Subdivision 2 Effect of declarations

46B Application of subdivision

This subdivision applies if a regulation declares that a particular material change of use of premises is temporary accepted development for a stated period under section 46A.

[s 28]

46C Effect of declaration and carrying out material change of use

- (1) For the stated period, this Act applies in relation to the material change of use of premises as if it were categorised as accepted development by a regulation made under sections 43(1) and 44(5).
- (2) Subsection (3) applies if the material change of use is carried out on premises under the declaration.
- (3) Any use of the premises that was a lawful use immediately before the material change of use is carried out does not stop being a lawful use merely because the material change of use is carried out.

46D Development applications during stated period

- (1) If the material change of use of premises would, but for section 46C(1), be assessable development, during the stated period—
 - (a) a person may apply for a development approval for the material change of use of premises under this chapter as if the declaration had not been made; and
 - (b) this Act applies in relation to the application as if the declaration had not been made.
- (2) Subsection (3) applies if—
 - (a) a development approval is given for the application, or taken to have been given, during the stated period; and
 - (b) under section 72, the development under the development approval may start during the stated period.
- (3) When the development under the development approval may start under section 72, the

declaration stops having effect to the extent the declaration applies to the premises the subject of the approval.

- (4) Subsections (5) and (6) apply if—
 - (a) the declaration stops having effect under subsection (3) in relation to the premises the subject of the development approval; and
 - (b) during the stated period but before the declaration stops having effect in relation to the premises, the material change of use is carried out on the premises.
- (5) If the material change of use involved the start of a new use or the re-establishment of a use on the premises, the carrying out of the material change of use under the declaration does not have the effect that the use is a lawful use of the premises after the declaration stops having effect.
- (6) If the material change of use involved a material increase in the intensity or scale of an existing use of the premises, the carrying out of the material change of use under the declaration does not have the effect that the use at the increased intensity or scale is a lawful use of the premises after the declaration stops having effect.

46E Use of premises after stated period ends

- (1) This section applies if—
 - (a) during the stated period, the material change of use is carried out on premises under the declaration; and
 - (b) either—
 - (i) a development approval is not given for the material change of use before the end of the stated period; or

[s 28]

- (ii) immediately before the end of the stated period, development under a development approval given for the material change of use is not permitted to start under section 72.
 - (2) If the material change of use involved the start of a new use or the re-establishment of a use on the premises—
 - (a) the carrying out of the material change of use under the declaration does not have the effect that the use is a lawful use of the premises after the stated period ends; and
 - (b) despite section 260(1), a planning instrument that starts applying to the premises at the end of the stated period may do a thing mentioned in the section in relation to the use; and
- Note—*
- See also section 260(3).
- (c) the carrying out of the use after the end of the stated period is taken to be a material change of use of the premises.
 - (3) However, if subsection (1)(b)(ii) applies, subsection (2)(c) does not—
 - (a) have the effect that a planning instrument may stop or further regulate the carrying out of the material change of use under the development approval; or
 - (b) affect the development approval.
 - (4) If the material change of use involved a material increase in the intensity or scale of an existing use of the premises—
 - (a) the carrying out of the material change of use under the declaration does not have the effect that the use at the increased intensity

or scale is a lawful use of the premises after the stated period ends; and

- (b) despite section 260(1), a planning instrument that starts applying to the premises at the end of the stated period may do a thing mentioned in the section in relation to the use at the increased intensity or scale; and

Note—

See also section 260(3).

- (c) the carrying out of the use at the increased intensity or scale after the end of the stated period is taken to be a material change of use of the premises.
- (5) However, if subsection (1)(b)(ii) applies, subsection (4)(c) does not—
- (a) have the effect that a planning instrument may stop or further regulate the carrying out of the material change of use under the development approval; or
- (b) affect the development approval.

29 Amendment of s 68 (Development assessment rules)

- (1) Section 68—

insert—

- (3A) However, section 10(6) applies as if a reference in section 10(6)(a)(i) to the day when the instrument was made were a reference to the day the development assessment rules took effect.
- (3B) Also, the Minister must comply with section 10(6), as applied under subsection (4), immediately after a regulation prescribes the development assessment rules.

- (2) Section 68(3A) to (5)—

[s 30]

renumber as section 68(4) to (7).

30 Amendment of s 69 (Amending the development assessment rules)

(1) Section 69(3), ‘Sections 10 and 11 apply’—

omit, insert—

Section 10 applies

(2) Section 69—

insert—

(3A) However, section 10(6) applies as if a reference in section 10(6)(a)(i) to the day when the instrument was made were a reference to the day the development assessment rules as amended took effect.

(3B) Also, the Minister must comply with section 10(6), as applied under subsection (4), immediately after a regulation prescribes the amended development assessment rules.

(3C) In addition, if the amendment is a minor amendment of the development assessment rules, section 10 does not apply to the amendment.

(3D) If the Minister makes a minor amendment of the development assessment rules, immediately after a regulation prescribes the amended development assessment rules, the Minister must—

(a) publish a public notice that states—

(i) the day when the amendment took effect; and

(ii) where a copy of the amended development assessment rules may be inspected or purchased; and

-
- (b) give a copy of the public notice, and the amended development assessment rules, to each affected local government.
- (3) Section 69—
insert—
- (5) In this section—
minor amendment, of the development assessment rules, has the meaning given by section 11(3) as if the rules were a State planning instrument.
- (4) Section 69(3A) to (5)—
renumber as section 69(4) to (9).

31 Amendment of s 75 (Making change representations)

- (1) Section 75(4)(b)(ii)—
omit, insert—
- (ii) the assessment manager gives the applicant the decision notice for the change representations; or
- (2) Section 75—
insert—
- (4A) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2), the appeal period is suspended from the day the representations are made until—
- (a) the applicant withdraws the change representations by notice given to the assessment manager; or
- (b) the assessment manager gives the applicant the decision notice for the change representations; or

[s 32]

- (c) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (3) Section 75(5), ‘However, if the assessment manager gives the applicant’—
omit, insert—
Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is
- (4) Section 75(4A) and (5)—
renumber as section 75(5) and (6).

32 Amendment of ch 4, pt 2, div 2, sdiv 5, hdg (Changing charges during relevant appeal period)

Chapter 4, part 2, division 2, subdivision 5, heading, ‘relevant’—

omit.

33 Amendment of s 125 (Representations about infrastructure charges notice)

- (1) Section 125(2), ‘the representations’—
omit, insert—
any representations made by the recipient
- (2) Section 125—
insert—
- (8) However, if the recipient gives the local government a notice withdrawing the representations before the local government has given a negotiated notice or decision notice—

- (a) the appeal period is taken to have been suspended from the day the representations were made; and
- (b) the balance of the appeal period restarts on the day after the day the local government receives the notice of withdrawal.

Note—

See also section 126 in relation to suspending the appeal period by notice.

34 Amendment of s 126 (Suspending relevant appeal period)

- (1) Section 126, heading, from ‘relevant’—

omit, insert—

appeal period by notice

- (2) Section 126, ‘relevant’—

omit.

- (3) Section 126(4), ‘the day after’—

omit, insert—

on the day after the day

- (4) Section 126—

insert—

Note—

See also section 125(7) and (8) in relation to other circumstances affecting the appeal period.

35 Amendment of s 264 (Public access to documents)

- (1) Section 264(4), ‘(7)’—

omit, insert—

(8)

- (2) Section 264—

[s 36]

insert—

- (8) Also, for a document of a type prescribed by regulation, the person is taken to comply with subsection (5)(a)(i) or (b) if—
- (a) a declared emergency applies to the place where the document is held; and
 - (b) the person is satisfied it is appropriate to give a copy of the document to another person asking to inspect the document—
 - (i) to protect the health, safety and welfare of anyone affected by the declared emergency; or
 - (ii) to facilitate the continuance of public administration disrupted by the declared emergency; and
 - (c) the person gives the copy to the other person, rather than allow them to inspect the document.

- (9) In this section—

declared emergency means—

- (a) a public health emergency declared under the *Public Health Act 2005*, section 319; or
- (b) a disaster situation declared under the *Disaster Management Act 2003*, section 64 or 69.

36 Amendment of s 343 (Validation provision for particular development approvals)

Section 343—

insert—

Note—

See also section 356.

37 Insertion of new ch 8, pt 9

Chapter 8—

insert—

Part 9 Transitional and validation provisions for Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024

Division 1 Provisions commencing on assent

355 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision about a matter for which—
 - (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition—
 - (i) from the operation of this Act as in force before the commencement of a relevant amendment; and
 - (ii) to the operation of this Act as in force after the commencement of the relevant amendment; and
 - (b) this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day the relevant amendment commences.

[s 37]

- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire on the day that is 2 years after the day this section commences.
- (5) In this section—
relevant amendment means an amendment of this Act by the *Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024*.

356 Extension of validation under s 343 to referral agencies

- (1) Section 343 applies, and is taken to have always applied, to a development approval mentioned in the section as if—
 - (a) a reference in the section to the assessment manager included a reference to a referral agency; and
 - (b) the reference in section 343(1)(a) to section 45(3) or (5) included a reference to section 55(2); and
 - (c) the reference in section 343(1)(d) to former section 45(7) included a reference to former section 55(4).
- (2) In this section—
former section 55(4) means section 55(4) as in force immediately before it was amended by the *Economic Development and Other Legislation Amendment Act 2019*.
section 55(2) means section 55(2) as in force on the commencement of section 343.

357 Existing public notice periods continue

- (1) This section applies in relation to a former public notice for a provision of this Act if—
 - (a) before the commencement, the public notice was published for the provision; and
 - (b) immediately before the commencement, a consultation period for the public notice under the former provision had not ended.
- (2) The former provision continues to apply in relation to the former public notice as if the *Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024* had not been enacted.
- (3) In this section—

former, in relation to a provision, means the provision as in force from time to time before the commencement.

former public notice, for a provision of this Act, means a public notice as defined in the former definition of *public notice* for the provision.

38 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *owner* (both occurrences) and *public notice*—
omit.
- (2) Schedule 2—
insert—

owner—

- 1 The *owner*, of land, premises or a place, means—
 - (a) generally—the person who—

[s 38]

- (i) is entitled to receive rent for the land, premises or place; or
- (ii) would be entitled to receive rent for the land, premises or place if the land, premises or place were rented to a tenant; or

Note—

See the Transport Infrastructure Act, section 247 for when the chief executive of the department in which that Act is administered is taken to be the owner of particular rail corridor land or non-rail corridor land under that Act.

- (b) for giving consent to an application made under chapter 3 in relation to premises that are, or are on, a reserve within the meaning of the Land Act—
 - (i) if the State, a local government or a statutory body within the meaning of the Land Act is the trustee for the reserve under that Act and the Minister of the department in which that Act is administered has not granted a lease over all or the part of the reserve to which the application relates—the trustee; or
 - (ii) otherwise—the Minister of the department in which the Land Act is administered.

2 The *owner*, of a thing that has been seized, includes a person who would be entitled to possession of the thing if the thing had not been seized.

public notice means a notice that is published—

- (a) for a public notice mentioned in chapter 2, part 2, or section 17, 42B or 69—

- (i) in the gazette; and
 - (ii) on the department’s website; or
- (b) for a public notice mentioned in chapter 2, part 3, other than section 17—

- (i) in a way the local government considers is likely to bring the notice to the attention of persons likely interested in or affected by the information stated in the notice; and

Examples of ways for subparagraph (i)—

- publishing the notice in a hard copy or online newspaper circulating in the area to which the information relates
- publishing the notice on the local government’s website

- (ii) in the gazette, unless the public notice is about a proposed local planning instrument or proposed amendment of a local planning instrument.

- (3) Schedule 2, definition *building work*, paragraph (a)(i), example—

omit.

- (4) Schedule 2, definition *properly made submission*, paragraph (a)—

omit, insert—

- (a) is signed in hard copy, or electronically given in the way stated in the notice for making the submission, by each person (the *submission-makers*) who made the submission; and

[s 39]

Division 3 **Amendments commencing by proclamation**

Subdivision 1 **Amendments relating to acquisition of land**

39 **Amendment of s 71 (When development approval has effect)**

Section 71(4), after ‘acquired under’—

insert—

 this Act,

40 **Amendment of s 150 (Infrastructure agreement)**

Section 150—

insert—

 (h) section 263D.

41 **Insertion of new ch 7, pt 2, div 1, hdg**

Before section 263—

insert—

Division 1 **Taking or purchasing of land by local governments**

42 **Amendment of s 263 (Taking or purchasing land for planning purposes)**

Section 263, heading, ‘Taking or purchasing’—

omit, insert—

When local governments may take or purchase

43 Insertion of new ch 7, pt 2, div 2

After section 263—

insert—

Division 2 Taking of land by State

263A When State may take land

- (1) The State may take land for development infrastructure.
- (2) However, the State may take the land only if—
 - (a) the Minister is satisfied—
 - (i) the infrastructure is necessary to facilitate development; and
 - (ii) reasonable steps have been taken to obtain the agreement of the owner of the land to actions on the land that would facilitate the provision of the infrastructure but the owner has not agreed to the actions; and
 - (iii) for land that is to vest in a public sector entity other than a department or part of a department—the entity has been consulted about the taking and vesting of the land; and
 - (b) an infrastructure agreement in relation to providing or paying for the infrastructure has been entered into under chapter 4; and
 - (c) an infrastructure agreement about the costs of taking the land has been entered into under section 263D; and
 - (d) the taking of the land complies with the criteria prescribed by regulation; and
 - (e) the Governor in Council approves, by regulation, the taking of the land.

[s 43]

- (3) The State's power to take the land for development infrastructure—
 - (a) applies even though—
 - (i) the taking of the land is for conferring rights or interests in the land on another entity; and
 - (ii) a person may derive a measurable benefit from any action taken on the land to facilitate the provision of the infrastructure; and
 - (b) includes the power to take, from time to time as required, land for the development infrastructure or another purpose incidental to the provision of the infrastructure.
- (4) The process under the Acquisition Act for the taking of land, and the payment of compensation for taking land, applies in relation to the taking of land under this section as if the land were being taken under the Acquisition Act by the State as a constructing authority.
- (5) However, the taking of land under this section is not a taking of land under the Acquisition Act.
- (6) The State's power to take land under this section does not limit the State's power to take land, as a constructing authority, under the Acquisition Act.

263B Power to take easements

- (1) The State's power under section 263A to take land for development infrastructure includes the power to create, by registration, an easement over the land under—
 - (a) the Land Act, chapter 6, part 4, division 8;
or
 - (b) the Land Title Act, part 6, division 4.

- (2) However, the easement may be created only if—
 - (a) the entity in which the easement vests has agreed to the terms of the easement; and
 - (b) the local government for the local government area in which the land is located has agreed to the terms of the easement.
- (3) This division, and the process under the Acquisition Act for the taking of land and the payment of compensation for taking land, apply in relation to the easement as if the easement were land.
- (4) In this section—

easement includes a public utility easement under the Land Act or the Land Title Act.

263C Vesting of land taken under s 263A

- (1) Land taken under section 263A vests in the entity stated in the gazette resumption notice for the taking of the land on the day the notice is published in the gazette.
- (2) For subsection (1), the entity stated in the gazette resumption notice must be a public sector entity.
- (3) In this section—

gazette resumption notice see the Acquisition Act, schedule 2.

263D Costs of taking land under s 263A

- (1) Before land is taken under section 263A, a person may enter into an agreement with the chief executive about the costs of taking the land.
- (2) The agreement may require the person to give a guarantee or provide security to the chief executive for the costs.

[s 43]

- (3) If the person does not pay to the chief executive the costs of taking the land in accordance with the agreement, the chief executive may recover the costs from the person as a debt owing by the person to the State.
- (4) In this section—
costs, of taking land, includes—
 - (a) operational, administrative and legal costs; and
 - (b) any compensation payable under the Acquisition Act for the taking of the land.

263E Application of Acquisition Act, ss 36 and 37

The Acquisition Act, sections 36 and 37 apply in relation to exercising a power to take land under section 263A as if the State were exercising its power to take land, as a constructing authority, under the Acquisition Act.

263F Notice of intention to dispose of land that is not required

- (1) This section applies in relation to land taken under section 263A if, within 7 years after the day the land is taken—
 - (a) the land is no longer required by the public sector entity that holds the land; and
 - (b) the public sector entity intends to dispose of the land.
- (2) The public sector entity must, by notice, advise the previous owner of the land that the entity intends to offer the land to the previous owner.
- (3) The notice must state—

- (a) the previous owner must, within 28 days after the day the notice is given, give a notice to the public sector entity stating whether or not the previous owner is interested in buying the land; and
 - (b) the public sector entity may dispose of the land to another person if—
 - (i) the public sector entity does not receive a notice under paragraph (a); or
 - (ii) the notice under paragraph (a) states the previous owner is not interested in buying the land; and
 - (c) if the public sector entity has taken an easement under subsection (4)—the nature and terms of the easement.
- (4) Before giving a notice under subsection (2), the public sector entity may take an easement over all or part of the land to ensure the structural and operational integrity of any development infrastructure on the land.
- (5) This section applies despite the Acquisition Act, section 41.

263G Power to dispose of land that is not required

- (1) Subsection (2) applies if the previous owner of land taken under section 263A gives a public sector entity a notice under section 263F(3)(a) stating that the previous owner is interested in buying the land.
- (2) The public sector entity must, by notice, offer the land, subject to any easement over the land, for sale to the previous owner at a price decided by the public sector entity.
- (3) Subsection (4) applies if the previous owner of land taken under section 263A—

[s 44]

- (a) does not give a notice under section 263F(3)(a) for the land; or
 - (b) gives a notice under section 263F(3)(a) stating that the previous owner is not interested in buying the land; or
 - (c) does not accept an offer for the sale of the land made by the public sector entity.
- (4) The public sector entity may dispose of the land subject to any easement over the land.
- (5) In deciding the price for which the land may be sold under subsection (2) or (4), the public sector entity must consider—
- (a) a valuation by a valuer registered under the *Valuers Registration Act 1992*; and
 - (b) the policies and systems for the management of the entity's assets; and
 - (c) the existence of any easement over the land.
- (6) A person contracting or otherwise dealing with a public sector entity in relation to land does not have to ask whether section 263F or this section has been complied with.
- (7) The title of any person to land acquired from the public sector entity is not affected by a failure to comply with section 263F or this section.
- (8) This section applies despite the Acquisition Act, section 41.

44 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *land*—
omit.
- (2) Schedule 2—
insert—

land—

- (a) for chapter 7, part 2—see the Acquisition Act, schedule 2; or
- (b) otherwise—includes—
 - (i) an estate in, on, over or under land; and
 - (ii) the airspace above the land and any estate in the airspace; and
 - (iii) the subsoil of land and any estate in the subsoil.

previous owner, of land taken under section 263A, means—

- (a) if, immediately before the land was taken, only 1 person had an interest in the land and that person is still alive or, in the case of a corporation, in existence—that person; or
 - (b) otherwise—any person the public sector entity that holds the land considers is fairly entitled to the benefit of section 263F(2), having regard to the interest that existed in the land immediately before the land was taken.
- (3) Schedule 2, definition *acquisition land*, paragraph (a), after ‘under’—

insert—

this Act,

Subdivision 2 Amendments relating to applicable events

45 Amendment of s 275D (Definitions for part)

Section 275D—

insert—

[s 46]

licensed premises see section 275J(2)(a)(ii).

46 Insertion of new s 275FA

After section 275F—

insert—

275FA Minister may revoke declarations of applicable events

- (1) The Minister may, by notice published on the department's website, revoke an applicable event notice if satisfied the declaration that the event is an applicable event is no longer necessary having regard to—
 - (a) the nature of the event; and
 - (b) the effect of the event on a State interest.
- (2) The Minister may act under subsection (1) without consulting with any person.
- (3) The notice must state the day the revocation takes effect.
- (4) The stated day must be at least 10 business days after the day the notice is published.
- (5) The revocation takes effect on the stated day.
- (6) The revocation is a statutory instrument.

47 Insertion of new ch 7, pt 4B, div 3, sdiv 1, hdg

Before section 275G—

insert—

Subdivision 1 Preliminary

48 Insertion of new ch 7, pt 4B, div 3, sdiv 2, hdg

Before section 275H—

insert—

Subdivision 2 Applications for temporary use licences

49 Insertion of new s 275HA

After section 275H—

insert—

275HA Chief executive may consult about applications

In considering an application for a temporary use licence made under section 275H, the chief executive may consult with any entity the chief executive considers appropriate.

50 Amendment of s 275J (Notices of decisions)

(1) Section 275J(2)(a)(ii), after ‘relates’—

insert—

(the *licensed premises*)

(2) Section 275J(2)(a)—

insert—

(*ia*) the end of the applicable event period for the applicable event notice to which the licence relates; and

(3) Section 275J(2)(a)(*ia*) to (v)—

renumber as section 275J(2)(a)(*iii*) to (vi).

51 Replacement of s 275K (Period of temporary use licences)

Section 275K—

omit, insert—

[s 52]

275K Period of temporary use licences

- (1) A temporary use licence has effect from the day the notice mentioned in section 275J(1) is given to the applicant (the *licence starting day*) until—
 - (a) if neither paragraph (b) nor paragraph (c) applies—the end of the applicable event period for the applicable event notice in effect at the licence starting day; or
 - (b) if the licence is sooner cancelled under section 275LK or 275LM—the day the cancellation takes effect; or
 - (c) if the period of the licence is extended under section 275LD or 275LF—the end of the extended period.

Note—

However, if a temporary use licence is suspended, the licence does not have effect for the period of the suspension. See section 275LM.

- (2) Despite subsection (1), if the applicable event notice is revoked, the temporary use licence stops having effect when the revocation takes effect.

52 Insertion of new ch 7, pt 4B, div 3, sdivs 3–6 and sdiv 7, hdg

After section 275L—

insert—

Subdivision 3 Extension of temporary use licences by application

275LA Application of subdivision

This subdivision applies in relation to a temporary use licence given in relation to the applicable event if the applicable event period for the applicable event notice is extended under section

275F.

275LB Applications to extend temporary use licences

- (1) The holder of the temporary use licence may apply to the chief executive to extend the period for which the temporary use licence has effect under section 275K before the period ends.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) include the matters prescribed by regulation.
- (3) If the period for which the temporary use licence has effect ends before the application is decided, the licence continues in effect under this subsection until the first of the following to happen—
 - (a) the chief executive gives the holder notice of the decision under section 275LE;
 - (b) the application is withdrawn.
- (4) Nothing in subsection (3) prevents the temporary use licence being suspended or cancelled during the period the licence is continued under that subsection.

275LC Chief executive may consult about applications

In considering an application made under section 275LB, the chief executive may consult with any entity the chief executive considers appropriate.

275LD Decisions on applications

- (1) The chief executive must consider an application made under section 275LB and decide—

[s 52]

- (a) to give or refuse the extension sought; or
 - (b) to extend the period for which the temporary use licence has effect for a period that is different from the extension sought.
- (2) The chief executive must not extend the period for which the temporary use licence has effect beyond the end of the extended applicable event period for the applicable event notice.
- (3) The chief executive may decide to extend the period for which the temporary use licence has effect only if satisfied that, having regard to the nature of the applicable event, there are reasonable grounds for giving the extension.

275LE Notices of decisions

- (1) The chief executive must give the applicant notice of the chief executive's decision.
- (2) If the decision is to extend the period for which the temporary use licence has effect—
- (a) the notice must state—
 - (i) the day the notice is given; and
 - (ii) the licensed premises for the licence; and
 - (iii) the period for which the licence is extended; and
 - (iv) for a decision mentioned in section 275LD(1)(b)—the reasons for the decision; and
 - (b) the chief executive must give a copy of the notice to the local government for the local government area in which the licensed premises for the licence are located; and

- (c) the period for which the licence has effect is taken to be extended for the period stated in the notice from the day the notice is given.
- (3) If the decision is to refuse the extension sought, the notice must state the reasons for the decision.

Subdivision 4 Power of Minister to extend all temporary use licences

275LF Minister may make declaration extending period of all temporary use licences

- (1) This section applies if—
 - (a) the applicable event period for the applicable event notice is extended under section 275F; and
 - (b) the Minister is satisfied that, having regard to the nature of the applicable event, it is appropriate for temporary use licences given under this division in relation to the event (each a *relevant temporary use licence*) to continue to have effect during the extended applicable event period.
- (2) The Minister may, by notice published on the department's website, declare that the period of each relevant temporary use licence in effect when the declaration is made is extended until the end of the extended applicable event period.
- (3) Immediately after making the declaration, the Minister must give notice of the declaration to—
 - (a) each holder of a relevant temporary use licence in effect when the declaration is made; and

[s 52]

- (b) each local government for a local government area in the part of the State to which the applicable event notice applies.
- (4) If a declaration is made under subsection (2), the period of each relevant temporary use licence in effect when the declaration is made is extended until the end of the extended applicable event period.
- (5) A declaration under subsection (2) is a statutory instrument.

Subdivision 5 Amendment or cancellation of temporary use licences by application

275LG Applications to amend temporary use licences

- (1) The holder of a temporary use licence may apply to the chief executive to amend the licence, including a condition of the licence.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) include the matters prescribed by regulation.

275LH Chief executive may consult about applications

In considering an application made under section 275LG, the chief executive may consult with any entity the chief executive considers appropriate.

275LI Decisions on applications

- (1) The chief executive must consider an application made under section 275LG and decide—

- (a) to make all or part of the requested amendment to the temporary use licence; or
 - (b) to refuse to make the requested amendment to the temporary use licence.
- (2) The chief executive may decide to amend a temporary use licence only if satisfied that, having regard to the nature of the applicable event in relation to which the licence was given, there are reasonable grounds for making the amendment.

275LJ Notices of decisions

- (1) The chief executive must give the applicant notice of the chief executive's decision.
- (2) If the decision is to make all or part of the requested amendment to the temporary use licence—
 - (a) the notice must state—
 - (i) the day the notice is given; and
 - (ii) the licensed premises for the licence; and
 - (iii) details of the amendment being made; and
 - (iv) for a decision to make part of the requested amendment only—the reasons for the decision; and
 - (b) the chief executive must give a copy of the notice to the local government for the local government area in which the licensed premises for the licence are located; and
 - (c) the licence is taken to be amended in the way stated in the notice from the day the notice is given.
- (3) If the decision is to refuse to make the

[s 52]

amendment, the notice must state the reasons for the decision.

275LK Requests to cancel temporary use licences

- (1) The holder of a temporary use licence may ask the chief executive to cancel the licence.
- (2) The request must—
 - (a) be in writing; and
 - (b) state the licensed premises for the temporary use licence.
- (3) On receiving the request, the chief executive must cancel the temporary use licence by giving notice of the cancellation to the holder of the licence.
- (4) The cancellation takes effect on the giving of the notice or a later day stated in the notice.
- (5) The chief executive must give a copy of the notice to the local government for the local government area in which the licensed premises for the temporary use licence are located.

Subdivision 6 Amendment, suspension or cancellation of temporary use licences by chief executive

275LL Grounds for chief executive to amend, suspend or cancel temporary use licences

Each of the following is a ground for amending, suspending or cancelling a temporary use licence—

- (a) the chief executive reasonably believes—

- (i) the holder of the licence has failed to comply with a condition of the licence; or
 - (ii) the licence was obtained because of false or misleading information; or
 - (iii) public safety has been endangered, or is likely to be endangered, because of the licence;
- (b) the chief executive—
- (i) becomes aware of an impact on the environment, or the amenity of the locality in which the licensed premises for the licence are located, that is occurring, or is likely to occur, as a result of the relevant change the subject of the licence; and
 - (ii) considers the application for the licence would have been refused if the chief executive had been aware of the impact before giving the licence;
- (c) the chief executive is satisfied that, having regard to the nature of the applicable event in relation to which the licence was given, there are no longer reasonable grounds for the relevant change the subject of the licence applying during the applicable event period for the applicable event notice.

275LM Chief executive may amend, suspend or cancel temporary use licences

- (1) If the chief executive considers a ground exists to amend, suspend or cancel a temporary use licence (the *proposed action*), the chief executive may give the holder of the licence a notice that complies with subsection (2).

[s 52]

- (2) The notice must state all of the following—
 - (a) the proposed action;
 - (b) the grounds for the proposed action;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) if the proposed action is to suspend the temporary use licence—the proposed suspension period;
 - (e) the holder of the licence may, within a reasonable period stated in the notice, make a submission to the chief executive to show why the proposed action should not be taken.
- (3) After the chief executive considers any submissions made by the holder of the temporary use licence within the stated period, the chief executive must decide—
 - (a) to take the proposed action; or
 - (b) not to take any action; or
 - (c) if the proposed action is to amend the licence—to amend the licence in another way having regard to the submissions; or
 - (d) if the proposed action is to suspend the licence—to amend the licence having regard to the submissions; or
 - (e) if the proposed action is to cancel the licence—
 - (i) to suspend the licence for a period; or
 - (ii) to amend the licence having regard to the submissions.
- (4) The chief executive must give the holder of the temporary use licence notice of the chief executive's decision.

- (5) The decision takes effect on—
 - (a) the day the notice is given to the holder of the temporary use licence; or
 - (b) a later day stated in the notice.
- (6) If the temporary use licence is amended, on the day the amendment takes effect section 275L applies to the licence as if a reference in the section to a temporary use licence were a reference to the licence as amended.
- (7) If the temporary use licence is suspended, the licence does not have effect for the period of the suspension.
- (8) The chief executive must give a copy of the notice under subsection (4) to the local government for the local government area in which the licensed premises for the temporary use licence are located.

Subdivision 7 Delegations

53 Amendment of s 275O (Declarations of uses and classes of uses)

- (1) Section 275O(1), after ‘website’—

insert—

(a *declaration notice*)

- (2) Section 275O(4)—

omit, insert—

- (4) The declaration has effect for the period stated in the declaration notice.

Note—

See also sections 275PA and 275PB for the extension and revocation of declarations under this section.

[s 54]

- (4A) For subsection (4), the stated period—
- (a) must not start before the day the declaration notice is published; and
 - (b) must not end after the end of the applicable event period for the applicable event notice.
- (3) Section 275O(5), after ‘declaration’—
insert—
notice
- (4) Section 275O(4A) and (5)—
renumber as section 275O(5) and (6).

54 Insertion of new ss 275PA and 275PB

After section 275P—

insert—

275PA Minister may extend period of declarations under s 275O

- (1) The Minister may, by notice published on the department’s website (a ***declaration extension notice***), extend the period for which a declaration made under section 275O has effect by a stated period.
- (2) However, the Minister may extend the period only if—
 - (a) the Minister is satisfied the extension is necessary having regard to the nature of the applicable event; and
 - (b) the extended period does not end after the end of the applicable event period for the applicable event notice.
- (3) The declaration extension notice must be published before the period of the declaration would otherwise end.

-
- (4) The declaration extension notice is a statutory instrument.

275PB Minister may revoke declarations under s 275O

- (1) The Minister may, by notice published on the department's website, revoke a declaration made under section 275O if satisfied the declaration is no longer necessary having regard to the nature of the applicable event.
- (2) The Minister may act under subsection (1) without consulting with any person.
- (3) The notice must state the day the revocation takes effect.
- (4) The stated day must be at least 10 business days after the day the notice is published.
- (5) The revocation takes effect on the stated day.
- (6) The revocation is a statutory instrument.

55 Amendment of s 275R (Extension of periods for doing things under Act)

- (1) Section 275R—

insert—

- (2A) The extension notice must state that the extension applies in relation to the relevant period in either or both of the following circumstances—
- (a) the relevant period starts during the period the notice is in effect;
- (b) the relevant period had started, but not ended, before the notice took effect.

- (2) Section 275R—

insert—

[s 56]

- (4A) The further extension notice may state in relation to a relevant period whether the relevant period extended by a stated period under the extension notice will be further extended by the further extension notice.
- (3) Section 275R(5)(a), ‘subsection (3)(a)’—
omit, insert—
subsection (4)(a)
- (4) Section 275R(6)—
omit.
- (5) Section 275R(2A) to (8)—
renumber as section 275R(3) to (9).

56 Amendment of s 275S (Suspension of periods for doing things under Act)

- (1) Section 275S—
insert—
- (2A) The suspension notice must state that the suspension applies in relation to the relevant period in either or both of the following circumstances—
- (a) the relevant period starts during the period the notice is in effect;
- (b) the relevant period had started, but not ended, before the notice took effect.
- (2) Section 275S—
insert—
- (4A) The further suspension notice may state in relation to a relevant period whether the relevant period suspended by a stated period under the suspension notice will be further suspended by the further suspension notice.

-
- (3) Section 275S(5)(a), ‘subsection (3)(a)’—
omit, insert—
subsection (4)(a)
- (4) Section 275S(6)—
omit.
- (5) Section 275S(2A) to (8)—
renumber as section 275S(3) to (9).

57 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

licensed premises, for chapter 7, part 4B, see
section 275J(2)(a)(ii).

**Subdivision 3 Amendments relating to
development control plans**

**58 Amendment of s 275U (Relationship between this part
and particular provisions)**

Section 275U(a), after ‘section 316’—

insert—

or 360

59 Amendment of s 316 (Development control plans)

- (1) Section 316(4), ‘part 7’—

omit, insert—

part 6

- (2) Section 316—

insert—

[s 60]

Note—

See, however, chapter 8, part 9, division 2.

60 Insertion of new ch 8, pt 9, div 2

Chapter 8, part 9, as inserted by this Act—

insert—

Division 2 Provisions for amendments relating to development control plans

358 Definitions for division

In this division—

development control plan means a plan mentioned in section 316(1) to which the old Act, section 857 applies under section 316(2).

IDAS means the system for integrating State and local government assessment and approval processes for development under the repealed *Integrated Planning Act 1997*.

359 Validation of particular approvals

- (1) This section applies to an approval that, before the commencement, was given or purportedly given under this Act or the old Act for development on premises to which a development control plan applies.
- (2) The approval, and anything done in relation to the approval, is not invalid merely because the application for the approval—
 - (a) was, or was purportedly, made under this Act or the old Act instead of the IDAS; or

- (b) was, or was purportedly, assessed, decided or otherwise dealt with under this Act or the old Act instead of the IDAS.

360 Development in development control plan areas

- (2) Despite section 316(2), the old Act, section 857(3) does not apply in relation to an application, made after the commencement, for a development approval for development on premises to which a development control plan applies.
- (3) The application must be made, assessed, decided and otherwise dealt with as a development application under this Act.
- (4) For applying subsection (3)—
 - (a) if the development control plan states the development is a particular category of development—the development is categorised in the way stated; and
 - (c) if the development control plan states the development is to be assessed against particular matters—the development is to be assessed against the matters stated.
- (5) A regulation may prescribe anything necessary or convenient to be prescribed for interpreting or applying this section or a development control plan, including, but not limited to—
 - (a) transitioning a category of development or category of assessment stated in a development control plan to a category of development or category of assessment under this Act; or
 - (b) stating how an assessment matter in a development control plan applies to the carrying out, after the commencement, of

[s 64]

development on premises to which the plan applies; or

(c) providing for the relationship between—

(i) a development control plan and a regulation, including the relationship between an assessment matter in a development control plan and a matter prescribed by regulation under this Act; or

(ii) a development control plan and a local planning instrument.

(6) In this section—

assessment matter, in a development control plan, means a category of development, category of assessment, assessment benchmark or any other matter relating to the assessment of development, stated in the development control plan.

Subdivision 4 Amendments relating to applications for State facilitated development

64 Amendment of s 78A (Responsible entity for change applications)

(1) Section 78A—

insert—

(3A) Further, the chief executive is the responsible entity for the change application instead of the person under subsection (1) if the change application is for a change to a development approval given or changed by the chief executive under part 6A.

(2) Section 78A—

insert—

(5A) If the change application is made to the chief executive as the responsible entity under subsection (4) and the chief executive is satisfied the change would not result in substantially different development, the chief executive may refer the change application to the assessment manager.

(3) Section 78A(6), after ‘Minister’—

insert—

or chief executive

(4) Section 78A(3A) to (6)—

renumber as section 78A(4) to (8).

65 Amendment of s 80 (Notifying affected entities of change applications for minor changes)

(1) Section 80(1)—

insert—

(da) if the chief executive would, under section 78A(4), be the responsible entity for the change application if it were made—the assessment manager;

(2) Section 80(1)(da) and (e)—

renumber as section 80(1)(e) and (f).

66 Amendment of s 81 (Assessing change applications for minor changes)

(1) Section 81(2), after paragraph (d)—

insert—

(daa) if the responsible entity is, under section 78A(4), the chief executive—all matters the chief executive would or may assess against

[s 67]

or have regard to, if the change application were a development application declared to be an application for State facilitated development under section 106D; and

- (2) Section 81(2)(da), ‘paragraph (d) does’—

omit, insert—

paragraphs (d) and (e) do

- (3) Section 81(2)(daa) to (e)—

renumber as section 81(2)(e) to (g).

- (4) Section 81(3), ‘subsection (2)(d) or (da)’—

omit, insert—

subsection (2)(d), (e) or (f)

67 Amendment of s 82 (Assessing and deciding change applications for other changes)

Section 82(3)—

insert—

- (d) if the responsible entity is, under section 78A(4), the chief executive—
- (i) the relevant provisions apply to the change application only if, and to the extent, those provisions would apply to a development application that is declared to be an application for State facilitated development under section 106D; and
 - (ii) section 106J(4) and (5) applies for assessing and deciding the change application.

68 Amendment of s 83 (Notice of decision)

- (1) Section 83(1)(f), from ‘after’ to ‘was’—

omit, insert—

or changed for an application

(2) Section 83(1)—

insert—

(fa) if the application relates to a development approval given or changed by the chief executive under part 6A—the chief executive; and

(3) Section 83(1)(fa) to (h)—

renumber as section 83(1)(g) to (i).

69 Amendment of s 84 (Cancellation applications)

(1) Section 84(2), from ‘to—’ to ‘assessment manager.’—

omit, insert—

to the assessment manager for the development application.

(2) Section 84(4)(b)(iv), after ‘given’—

insert—

or changed

(3) Section 84(4)(b)(v), ‘given under a call in’—

omit, insert—

given or changed under a call in provision

(4) Section 84(4)(b)—

insert—

(vi) for an approval given or changed by the chief executive under part 6A—the chief executive.

[s 69A]

69A Amendment of s 86 (Extension applications)

Section 86(1), note—

omit, insert—

Notes—

- 1 For the making of an extension application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, section 51AL.
- 2 For the making of an extension application for a development approval given or changed by the chief executive under part 6A, see section 87A.

70 Amendment of s 87 (Assessing and deciding extension applications)

(1) Section 87(5)(e), after ‘given’—

insert—

or changed

(2) Section 87(5)(f)—

omit, insert—

(f) if the development approval was given or changed under a call in provision—the Minister.

70A Insertion of new s 87A

After section 87—

insert—

87A Extension applications for development approvals given or changed under pt 6A

- (1) This section applies in relation to a development approval given or changed by the chief executive under part 6A.
- (2) Sections 86 and 87, other than section 87(4) and (5), apply in relation to the development approval

as if a reference in the sections to the assessment manager were a reference to the chief executive.

- (3) Despite section 87(5), the chief executive must give a decision notice for a decision about the extension application to—
- (a) the applicant; and
 - (b) the assessment manager; and
 - (c) if the assessment manager is not the local government—the local government; and
 - (d) each referral agency other than the chief executive.

71 Amendment of s 103 (Call in notice)

Section 103—

insert—

- (5) To remove any doubt, it is declared that the Minister may call in an application under this section even if the application has been decided by the decision-maker.

72 Amendment of s 104 (Effect of call in notice)

- (1) Section 104(1)(a)—

omit, insert—

- (a) any decision on the application made by the decision-maker, including any deemed approval, stops having effect; and
 - (aa) any decision notice given by the decision-maker for the application stops having effect; and
- (2) Section 104(1)(aa) to (c)—
- renumber* as section 104(1)(b) to (d).

[s 73]

73 Amendment of s 105 (Deciding called in application)

Section 105(9)(b)(i), ‘assessment manager’—
omit, insert—
decision-maker

74 Insertion of new ch 3, pt 6A

Chapter 3—
insert—

**Part 6A Declaring applications
for State facilitated
development**

Division 1 Preliminary

106A Application of part

- (1) This part applies in relation to the following applications (each a *relevant application*) if the decision-maker for the application is a person other than the Minister or the chief executive—
 - (a) a development application, or a proposed development application, for a material change of use of premises or reconfiguring a lot;
 - (b) a change application, or a proposed change application, in relation to a development approval for a material change of use of premises or reconfiguring a lot.
- (2) An application is a *relevant application* even if the application is also for, or relates to, development other than the material change of use of premises or reconfiguration.

Example—

A development application that is for a material change of use of premises, as well as operational works, is a relevant application if the decision-maker for the application is a person other than the Minister or the chief executive.

- (3) To remove any doubt, it is declared that this part applies in relation to a relevant application even if the application has been decided by the decision-maker.
- (4) However, this part does not apply in relation to a relevant application that—
 - (a) has been decided by the P&E Court; or
 - (b) is not substantially different from an application that has been decided by the P&E Court.

106B Definitions for part

In this part—

application period see section 106F(1)(g)(i).

decision-maker, for a relevant application, means—

- (a) if the relevant application is a development application—the assessment manager for the application; or
- (b) if the relevant application is a proposed development application—the entity that would be the assessment manager for the application if it were made; or
- (c) if the relevant application is a change application—the responsible entity for the application; or
- (d) if the relevant application is a proposed change application—the entity that would

[s 74]

be the responsible entity for the application if it were made.

declaration notice see section 106E(a).

relevant application see section 106A.

representation period see section 106C(3)(f).

restarting point see section 106F(1)(f)(ii).

Division 2 Making declarations

106C Notice of proposed declaration

- (1) This section applies if the Minister proposes to declare, under section 106D, that the relevant application is an application for State facilitated development.
- (2) Before making the declaration, the Minister must give notice of the proposed declaration to—
 - (a) the applicant; and
 - (b) if the applicant is not the owner of the premises the subject of the application—the owner of the premises; and
 - (c) the decision-maker for the application; and
 - (d) if the decision-maker is not the local government for the local government area in which the premises the subject of the application is situated—the local government; and
 - (e) if the notice is given after the application is made to the decision-maker—each referral agency for the application other than the chief executive; and

- (f) any submitters for the application the Minister is aware of when the notice is given; and
 - (g) another entity prescribed by regulation.
- (3) The notice must state—
- (a) the Minister is proposing to make a declaration under section 106D in relation to the application; and
 - (b) the day the notice is given; and
 - (c) details of the application; and
 - (d) the reasons for making the declaration; and
 - (e) the effect of the declaration under section 106H; and
 - (f) the person to whom the notice is given may make representations to the Minister about the proposed declaration within the stated period of at least 15 business days after the day the notice is given (the *representation period*); and
 - (g) any other matter prescribed by regulation.
- (4) The Minister must consider any representations made during the representation period in deciding whether to make the declaration.

106D Declaring applications for State facilitated development

- (1) The Minister may, within 10 business days after the day the representation period ends, declare that the relevant application is an application for State facilitated development.
- (2) However, the Minister may make the declaration only if—

[s 74]

- (a) the Minister considers that the carrying out of the development the subject of the application will assist in delivering development that—
 - (i) is for an urban purpose; and
 - (ii) is an identified priority for the State; and
 - (b) the application complies with the criteria prescribed by regulation; and
 - (c) the Minister is satisfied it is appropriate for the chief executive to assess and decide all or part of the application instead of the decision-maker for the application.
- (3) In considering the matter mentioned in subsection (2)(c), the Minister may have regard to any matter the Minister considers relevant.
- (4) In this section—
- urban purpose*** means a purpose for which land is used in cities and towns—
- (a) including residential, industrial, sporting, recreational and commercial purposes; but
 - (b) not including rural residential, environmental, conservation, rural, natural or wilderness area purposes.

106E Notice of declaration

The Minister must—

- (a) give notice of the making of the declaration (a ***declaration notice***) to—
 - (i) each entity mentioned in section 106C(2)(a) to (d); and
 - (ii) if the notice is given after the relevant application is made to the

- decision-maker—each referral agency for the application other than the chief executive; and
 - (iii) any submitters for the application the Minister is aware of when the notice is given; and
 - (iv) if there are proceedings relating to the application in the P&E Court—the court; and
- (b) publish a copy of the notice on the department’s website.

106F Content of declaration notice

- (1) The declaration notice must state—
- (a) the Minister has made a declaration under section 106D in relation to the relevant application; and
 - (b) the day the notice is given; and
 - (c) details of the application; and
 - (d) the reasons for making the declaration; and
 - (e) the effect of the declaration under section 106H; and
 - (f) if the notice is given after the application is made to the decision-maker—
 - (i) division 3 applies for assessing and deciding the application; and
 - (ii) the point in the process for administering the application from which the process must restart (the *restarting point*); and
 - (g) if paragraph (f) does not apply—
 - (i) an application that is not substantially different from the relevant application

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must be made to the chief executive within the stated period (the *application period*); and

- (ii) division 3 will apply for assessing and deciding an application made in accordance with subparagraph (i); and
 - (h) any other matter prescribed by regulation.
- (2) If the declaration notice is given before the decision-maker decides the application, the declaration notice may direct the decision-maker to assess all or a stated part of the application.
 - (3) In deciding the restarting point for subsection (1)(f)(ii), the Minister may have regard to any matter the Minister considers relevant.

106G Period of declaration

- (1) The declaration takes effect on the day the declaration notice is given under section 106E(a).
- (2) Subsection (3) applies if—
 - (a) the declaration notice states that an application that is not substantially different from the relevant application must be made to the chief executive within the application period; and
 - (b) the applicant does not comply with the requirement.
- (3) The declaration stops having effect at the end of the application period.
- (4) If subsection (3) does not apply, the declaration stops having effect when—
 - (a) the chief executive gives a decision notice for the application or a part of the application under division 3; or
 - (b) the application lapses or is withdrawn.

106H Effect of declaration

- (1) This section applies if the Minister declares, under section 106D, that the relevant application is an application for State facilitated development.
- (2) When the declaration takes effect—
 - (a) any decision on the application made by the decision-maker, including any deemed approval, stops having effect; and
 - (b) any decision notice given by the decision-maker for the application stops having effect; and
 - (c) any appeal against a decision on the application made by the decision-maker is discontinued; and
 - (d) if the declaration notice states the restarting point for the application—the process for administering the application starts again from the restarting point.
- (3) To remove any doubt, it is declared that the local government may give an infrastructure charges notice in relation to a development approval given for the application under division 3.

Division 3 Assessing and deciding applications for State facilitated development

106I Application of division

This division applies if—

- (a) the Minister declares, under section 106D, that the relevant application is an

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application for State facilitated development; and

- (b) for a relevant application that is a proposed development application or a proposed change application—an application that is not substantially different from the relevant application is made to the chief executive within the application period for the application.

106IA Notice about publicly notifying application

- (1) This section applies if the application is made to the chief executive under section 106I(b).
- (2) Section 53 does not apply in relation to the application.
- (3) The chief executive may give the applicant a notice stating requirements for notifying and consulting with the public about the application (a *notification notice*).
- (4) The applicant must comply with the notification notice.
- (5) However, the chief executive may assess and decide the application even if the notification notice has not been complied with.
- (6) To remove any doubt, it is declared that a notification notice may be given under this section whether or not—
 - (a) any part of the application requires impact assessment; or
 - (b) the application includes a variation request; or
 - (c) the application is a change application for a minor change to the development approval.

106J Assessing and deciding application

- (1) The chief executive must assess and decide, or reassess and re-decide, the application or a part of the application.
- (2) However, if the declaration notice for the application directs the decision-maker to assess the application or a stated part of the application, the chief executive's decision in relation to the application may be based on the decision-maker's assessment.
- (3) The following provisions do not apply in relation to assessing and deciding the application—
 - (a) if the application is a development application—
 - (i) section 45(3) to (8); and
 - (ii) part 3, division 1; and
 - (iii) sections 60 and 61 to the extent the sections impose an obligation on an assessment manager; and
 - (iv) section 62; and
 - (v) section 64; and
 - (vi) section 275ZI;
 - (b) if the application is a change application—sections 81, 81A and 82.
- (4) In assessing and deciding the application, the chief executive may consider—
 - (a) any State interests relating to the development the subject of the application; and
 - (b) any planning instruments applying to the premises the subject of the application; and
 - (c) any information or advice given to the chief executive in relation to the application,

[s 74]

- including information or advice in a submission or representation; and
- (d) any other matter the chief executive considers relevant.
- (5) The chief executive need not consider any referral agency's response given before the declaration notice for the application is given but may ask a referral agency for the application for advice about the application.

106K Obligations of decision-maker

The decision-maker must—

- (a) give all reasonable help the chief executive requires to assess or decide the application; and
- (b) if the declaration notice for the application directs the decision-maker to assess the application or a stated part of the application—assess the application or part.

106L Notice of decision

- (1) This section applies if the chief executive decides the application, or a part of the application, under section 106J.
- (2) Despite sections 63(1) and 83(1), the decision notice for the decision must be given to each person who was required to be given the declaration notice for the application under section 106E(a).
- (3) The following provisions do not apply in relation to the decision or the decision notice for the decision—
 - (a) section 63(2)(d), (e)(ii) and (iii), (f)(i) and (h), (4) and (5);

- (b) section 83(2), (8) and (9).
- (4) The decision notice must state—
 - (a) the matters the chief executive considered in making the decision; and
 - (b) if the chief executive decided only part of the application—
 - (i) the decision-maker must assess and decide, or reassess and re-decide, the other part; and
 - (ii) the point in the process for assessing the other part from which the assessment must restart; and
 - (iii) the day the process must restart.
- (5) If the decision is to approve the application or a part of the application, the decision notice may state a currency period for all or part of the development approval.

106M Publication of notice about decision

- (1) The chief executive must publish a notice about the chief executive's decision under section 106J on the department's website.
- (2) The notice must state—
 - (a) a description of the development the subject of the application; and
 - (b) the reasons for the decision; and
 - (c) any other matter prescribed by regulation.

Division 4 Miscellaneous

[s 74]

106N Reports about declarations and applications

- (1) If the chief executive decides an application, or part of an application, under section 106J, the chief executive must prepare a report that—
 - (a) explains the nature of the decision and the matters the chief executive considered in making the decision; and
 - (b) includes a copy of the decision notice for the decision.
- (2) As soon as practicable after the end of each financial year, but no later than 31 October, the Minister must table in the Legislative Assembly a report that—
 - (a) states the number of declarations made under section 106D during the financial year; and
 - (b) for each decision made under section 106J during the financial year—includes a copy of the report prepared under subsection (1) for the decision.

106P Matters for regulations

- (1) A regulation may prescribe matters for this part, including—
 - (a) when and to whom notice of a proposed declaration may be given under section 106C; and
 - (b) the effect of giving notice of a proposed declaration under section 106C on—
 - (i) the process for assessing and deciding a relevant application; and
 - (ii) any appeal period in relation to the application; and

- (c) procedures for notifying persons of the Minister's decision not to make a declaration under section 106D.
- (2) Without limiting subsection (1), a regulation may also—
 - (a) provide that, despite section 71, an approval or deemed approval of a relevant application in relation to which a notice is given under section 106C is taken not to be in effect for a stated period; or
 - (b) modify a period stated in this chapter for assessing and deciding a relevant application that is declared to be an application for State facilitated development under section 106D.

106Q Delegations

The chief executive may delegate the chief executive's functions under this part to an appropriately qualified public service officer.

75 Amendment of s 157 (Infrastructure agreement applies instead of approval and charges notice)

- (1) Section 157(3) and (4)—
omit, insert—
 - (3) Subsection (4) applies if—
 - (a) the infrastructure agreement relates to a development approval given or changed by the chief executive under chapter 3, part 6A; and
 - (b) the chief executive is not a party to the agreement.
 - (4) Despite subsection (1), the infrastructure agreement applies, to the extent of any

[s 75A]

inconsistency, instead of the development approval or an infrastructure charges notice in relation to the approval only if the chief executive approves the agreement before or after the development approval or notice is given.

- (4A) An approval of an infrastructure agreement under subsection (2) or (4)—
- (a) must be given by notice to each party to the agreement; and
 - (b) may be given before or after the agreement is entered into.

- (2) Section 157(4A) and (5)—
renumber as section 157(5) and (6).

75A Amendment of sch 1 (Appeals)

Schedule 1, table 1, item 3, after ‘Minister’—
insert—

or made to the chief executive under section 87A

76 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *decision-maker*, *excluded application* and *representation period*—
omit.
- (2) Schedule 2—
insert—

application period, for chapter 3, part 6A, see section 106F(1)(g)(i).

decision-maker—

- (a) for chapter 3, part 6—see section 90(2); or
- (b) for a relevant application, for chapter 3, part 6A—see section 106B.

declaration notice, for chapter 3, part 6A, see section 106E(a).

excluded application means—

- (a) a change application, or a development application, to the extent the application—
 - (i) is decided, or taken to be decided, under a call in provision; or
 - (ii) is decided, or taken to be decided, by the chief executive under chapter 3, part 6A; or
 - (iii) is decided by the P&E Court; or
- (b) a change application—
 - (i) to change a development approval given or changed under a call in provision; and
 - (ii) that is made to the Minister as the responsible entity under section 78A(3); or
- (c) a change application—
 - (i) to change a development approval given or changed by the chief executive under chapter 3, part 6A; and
 - (ii) that is made to the chief executive as the responsible entity under section 78A(4).

relevant application see section 106A.

representation period—

- (a) for chapter 3, part 6, division 3—see section 102(3)(d); or
- (b) for chapter 3, part 6A—see section 106C(3)(f).

restarting point—

[s 77]

- (a) for chapter 3, part 6, division 3—see section 103(3)(b)(ii); or
 - (b) for chapter 3, part 6A—see section 106F(1)(f)(ii).
- (3) Schedule 2, definition *enforcement authority*, paragraph (a), ‘development approval’—
omit, insert—
development approval other than an approval mentioned in paragraph (b)—
- (4) Schedule 2, definition *enforcement authority*, paragraph (a)(iii), ‘written’—
omit.
- (5) Schedule 2, definition *enforcement authority*—
insert—
(aa) for assessable development that is the subject of a development approval given or changed under a call in provision or by the chief executive under chapter 3, part 6A—a person the chief executive nominates by notice to the person; or
- (6) Schedule 2, definition *enforcement authority*, paragraphs (aa) to (d)—
renumber as paragraphs (b) to (e).

Subdivision 5 Amendments relating to urban encroachment

77 Amendment of s 229 (Appeals to tribunal or P&E Court)

- (1) Section 229(3)—
insert—

(ca) for an appeal against a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or

- (2) Section 229(3)(ca) to (g)—
renumber as section 229(3)(d) to (h).

78 Amendment of s 267 (Making or renewing registrations)

- (1) Section 267(2)—
insert—

Note—

See also section 268C.

- (2) Section 267(7)(b)—
omit, insert—

- (b) for an application for the registration of premises—the applicant has complied with section 268C; and
(c) about any matters prescribed by regulation.

79 Amendment of s 268 (Amending or cancelling registrations)

- (1) Section 268, heading, ‘or cancelling’—
omit, insert—

conditions of, or cancelling,

- (2) Section 268(3), ‘or cancel a’—
omit, insert—

the conditions of, or cancel, the

[s 80]

80 Insertion of new ss 268A–268C

After section 268—

insert—

268A Application to amend registration to include additional land in affected area

- (1) The owner of registered premises may apply to the Minister to amend the registration to include additional land in the affected area for the premises.

Note—

See also section 268C.

- (2) The Minister must consider the application and decide to—
- (a) approve the amendment of the registration, with or without conditions; or
 - (b) refuse the amendment of the registration.
- (3) The Minister may approve the amendment of the registration if satisfied—
- (a) the levels of emissions from the registered premises comply with—
 - (i) a development approval for the premises; and
 - (ii) an environmental authority applying to an activity carried out on the premises; and
 - (b) the applicant has complied with section 268C; and
 - (c) about any matters prescribed by regulation.
- (4) A condition imposed under subsection (2)(a)—
- (a) may relate only to the amendment of the registration; and
 - (b) is taken to be a condition of the registration.

- (5) The Minister must, as soon as practicable after deciding the application, give a decision notice to the applicant.
- (6) If the amendment of the registration is approved, the decision notice must identify the affected area for the registered premises, as changed to include the additional land.
- (7) The amendment of the registration starts to have effect on—
 - (a) the day the decision notice is given to the applicant; or
 - (b) a later day stated in the decision notice.
- (8) As soon as practicable after the Minister decides to approve the amendment, the Minister must give notice of the inclusion of the additional land to each local government in whose local government area the affected area for the registered premises, as changed, is situated.
- (9) As soon as practicable after receiving a notice under subsection (8), the local government must note the inclusion of the additional land in the affected area on—
 - (a) the local government’s planning scheme; and
 - (b) any planning scheme the local government makes before the registration expires.

Note—

See also section 269A about the responsibilities of owners of registered premises if an application under this section is approved.

268B Removal of land from affected area for registered premises

- (1) This section provides for the removal of land from the affected area for registered premises.

[s 80]

- (2) Before land can be removed from the affected area for registered premises, the owner of the registered premises must—
- (a) publish a notice about the proposed removal in a relevant online newspaper for the affected area; and
 - (b) if the owner has a website for the registered premises—publish details of the proposed removal on the website.

Maximum penalty—50 penalty units.

- (3) Within 10 business days after complying with subsection (2), the owner must give the Minister—
- (a) notice of the compliance; and
 - (b) a map of the affected area for the registered premises, as changed.

Maximum penalty—20 penalty units.

- (4) The removal of the land from the affected area for the registered premises takes effect when the owner gives the Minister the notice under subsection (3)(a).
- (5) As soon as practicable after complying with subsection (3), the owner must ask the registrar of titles, by notice, to amend the record kept under section 273(1) in relation to the affected area for the registered premises to note the removal of the land.

Maximum penalty—20 penalty units.

Note—

See also section 271A.

268C Requirements for public consultation

- (1) This section applies to an owner of premises who proposes to make—

-
- (a) an application under section 267(2) for the registration of the premises; or
 - (b) an application under section 268A.
- (2) Before making the proposed application, the owner must—
- (a) give notice of the proposed application to—
 - (i) for an application under section 267(2) for the registration of the premises—the owners and occupiers of all premises in the area to which registration is proposed to relate; or
 - (ii) for an application under section 268A—the owners and occupiers of all premises within the additional land that is proposed to be included in the affected area for the registered premises; and
 - (b) publish a copy of the notice at least once in a relevant online newspaper for the premises.
- (3) The notice under subsection (2) must—
- (a) state a period, of at least 15 business days after the day the notice is published under subsection (2)(b), in which a person may make a submission to the owner about the proposed application; and
 - (b) comply with the requirements prescribed by regulation.

81 Amendment of s 269 (Responsibilities of owners of registered premises)

- (1) Section 269, heading, after ‘premises’—

insert—

relating to registration generally

[s 82]

- (2) Section 269(3), ‘20 business days’—
omit, insert—
10 business days
- (3) Section 269(3)(a), ‘newspaper circulating generally in’—
omit, insert—
relevant online newspaper for
- (4) Section 269(4), ‘20 business days’—
omit, insert—
10 business days
- (5) Section 269(4), ‘newspaper circulating generally in’—
omit, insert—
relevant online newspaper for
- (6) Section 269(5), ‘As soon as practicable’—
omit, insert—
Within 10 business days
- (7) Section 269(7)—
insert—
Note—
See also section 271A.
- (8) Section 269(8)—
omit.

82 Insertion of new s 269A

After section 269—

insert—

269A Responsibilities of owners of registered premises relating to amendments under s 268A

- (1) This section applies if the Minister approves an

application under section 268A to amend a registration to include additional land in the affected area for the registered premises.

- (2) Within 10 business days after the day the amendment takes effect, the owner of the registered premises must—
 - (a) publish a notice about the inclusion of the additional land in a relevant online newspaper for the affected area; and
 - (b) if the owner has a website for the premises—publish details about the inclusion of the additional land on the website.

Maximum penalty—50 penalty units.

- (3) Within 10 business days after complying with subsection (2), the owner of the registered premises must give notice of the compliance to the Minister.

Maximum penalty—20 penalty units.

- (4) Within 20 business days after the day the amendment takes effect, the owner of the registered premises must ask the registrar of titles, by notice, to keep a record that this part applies to all lots within the additional land.

Maximum penalty—200 penalty units.

Note—

See also section 271A.

83 Amendment of s 271 (Responsibilities on development applicants)

- (1) Section 271(3)—

insert—

[s 84]

Note—

See also section 271A.

(2) Section 271(4)—

omit.

84 Insertion of new s 271A

After section 271—

insert—

271A Requirements for notices given to registrar of titles

- (1) This section applies to a notice that a person is required to give to the registrar of titles under this part.
- (2) The notice must—
 - (a) be in the form approved by the registrar under the Land Title Act; and
 - (b) be accompanied by the titles registry fee under the Land Title Act for the notice.

85 Amendment of s 273 (Responsibilities of registrar of titles)

(1) Section 273(1), after ‘269(2)’—

insert—

, 269A(4)

(2) Section 273—

insert—

- (1A) The registrar of titles must, on receiving a notice under section 268B(5), amend the record relating to the affected area to which the notice relates in accordance with the notice.

(3) Section 273(3), from ‘under’ to ‘if’—

omit, insert—

kept under this section if

(4) Section 273—

insert—

(4) The registrar of titles may amend a record kept under this section to note the removal of land from the affected area for registered premises if the registrar is satisfied, on reasonable grounds, that the land has been removed from the affected area under section 268B.

(5) Section 273(1A) to (4)—

renumber as section 273(2) to (5).

86 Amendment of s 274 (Restriction on legal proceedings)

(1) Subsection 274(3), ‘However, this section does not apply if’—

omit, insert—

Subsection (4) applies if

(2) Section 274—

insert—

(3A) Subsection (2) applies in relation to an act or omission that happens after the new or amended authority starts applying for the registered premises only if the owner of the premises has complied with section 274A(2) and (3) in relation to the new or amended authority.

(3) Section 274(3A) and (4)—

renumber as section 274(4) and (5).

87 Insertion of new s 274A

After section 274—

[s 87]

insert—

274A Provisions relating to new or amended authority for registered premises

- (1) This section applies if, during the registration period for registered premises—
 - (a) a new or amended authority starts applying for the premises; and
 - (b) the new or amended authority authorises greater emissions from the premises than the original authority of the same type for the premises.
- (2) Within 20 business days after the day the new or amended authority starts applying for the registered premises, the owner of the premises must—
 - (a) publish a notice about the greater emissions authorised under the new or amended authority in a relevant online newspaper for the affected area for the premises; and
 - (b) if the owner has a website for the premises—publish details about the greater emissions authorised under the new or amended authority on the website.

Maximum penalty—50 penalty units.

- (3) Within 10 business days after complying with subsection (2), the owner of the registered premises must give the Minister—
 - (a) notice of the compliance; and
 - (b) a copy of the new or amended authority; and
 - (c) a copy of the notice mentioned in subsection (2)(a).

Maximum penalty—20 penalty units.

- (4) As soon as practicable after receiving the

documents mentioned in subsection (3), the Minister must give notice of the new or amended authority to each local government in whose local government area the affected area for the registered premises is situated.

(5) In this section—

new or amended authority see section 274(5).

original authority see section 274(5).

registration period, for registered premises, means the period of registration that applies to the premises under section 267(11).

88 Amendment of s 275 (Regulation may prescribe matters)

(1) Section 275(a), ‘to register’—

omit, insert—

under section 267 to register or renew the registration of

(2) Section 275—

insert—

(aa) requirements for an application under section 268A to amend the registration of premises to include additional land in the affected area for the premises; and

(3) Section 275(aa) to (g)—

renumber as section 275(b) to (h).

89 Amendment of s 322 (Milton XXXX Brewery)

Section 322(5)—

insert—

Note—

However, see section 361.

[s 90]

90 Insertion of new ch 8, pt 9, div 3

Chapter 8, part 9, as inserted by this Act—

insert—

**Division 3 Provisions for
amendments relating to
urban encroachment**

361 Milton XXXX Brewery

- (1) This section applies in relation to the brewery on lot 35 on plan SL805565.
- (2) Section 322(4) stops applying in relation to the brewery if, after the commencement—
 - (a) a new or amended authority starts applying to the brewery; and
 - (b) the new or amended authority authorises an emission of light at an intensity greater than the intensity of light emitted from the brewery before 27 April 2009.
- (3) Despite section 322(5), schedule 1, table 2, item 5 applies in relation to a decision made under chapter 7, part 4 after the commencement in relation to the brewery.
- (4) In this section—

new or amended authority see section 274(5).

91 Amendment of sch 1 (Appeals)

Schedule 1, table 2, item 5, column 1—

insert—

- 3 If the decision is to amend the registration of premises to include additional land in the affected area for the premises—an owner or

occupier of premises within the additional
land who is dissatisfied with the decision

92 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *affected area development application*—

omit.

(2) Schedule 2—

insert—

affected area development application—

(a) means a development application for a material change of use of premises or reconfiguring a lot if the premises or lot are completely or partly in an affected area when the application is made; but

(b) does not include a development application prescribed by regulation.

relevant online newspaper, for premises or an affected area, means an online newspaper that primarily publishes news or public notices in relation to the local government area or locality in which the premises or affected area are situated.

Subdivision 6 Amendments relating to other matters

93 Amendment of s 26 (Power of Minister to direct action be taken)

(1) Section 26, heading, after ‘taken’—

insert—

generally

(2) Section 26—

[s 94]

insert—

(1A) However, this section does not apply to a local government's existing planning scheme to the extent section 26A(1) applies to the scheme.

(3) Section 26(2)(a), 'the regulated requirements'—

omit, insert—

this Act

(4) Section 26(5)(c), 'required under'—

omit, insert—

provided for in

(5) Section 26(5)(d), after 'rules'—

insert—

under section 37

94 Insertion of new s 26A

After section 26—

insert—

26A Power of Minister to direct particular amendment of planning schemes

(1) This section applies if the Minister considers—

(a) a local government should amend its planning scheme to ensure the planning scheme is consistent with—

(i) the regulated requirements; or

(ii) a regulation made under section 43(1) or 44(5) to the extent the regulation categorises development as prohibited development or accepted development;
or

(iii) section 43(5); or

- (b) both of the following apply—
 - (i) a local government should amend its planning scheme to protect, or give effect to, a State interest;
 - (ii) adequate public consultation was carried out in relation to the subject matter of the amendment.
- (2) The Minister may direct the local government to amend its planning scheme as provided for in section 20.
- (3) The Minister may act under subsection (2) without consulting with any person.
- (4) If the Minister decides to direct the local government to amend its planning scheme, the Minister must give the local government a notice that states—
 - (a) the nature of the amendment; and
 - (b) the reasons for making the amendment; and
 - (c) a reasonable period within which the local government must make the amendment.
- (5) If the local government does not make the amendment as directed, the Minister may—
 - (a) take action to make the amendment; and
 - (b) recover any expense the Minister reasonably incurs in taking the action from the local government as a debt.
- (6) The action taken by the Minister has the same effect as if the local government had taken the action.

95 Amendment of s 27 (Power of Minister to take urgent action)

- (1) Section 27(1)(a)—

[s 96]

omit, insert—

(a) either—

(i) action should be taken under section 26(2)(b) to protect, or give effect to, a State interest; or

(ii) section 26A(1)(b) applies in relation to taking action to amend a planning scheme to protect, or give effect to, a State interest; and

(2) Section 27(3)(a), after ‘section 26’—

insert—

or 26A

96 Amendment of s 43 (Categorising instruments)

(1) Section 43(5)—

insert—

(d) may not include an assessment benchmark about the effect or impact of development on the stated cultural heritage significance of a Queensland heritage place.

(2) Section 43—

insert—

(5A) To remove any doubt, it is declared that subsection (5)(d) applies even if the Queensland heritage place is also a local heritage place.

96A Amendment of s 45 (Categories of assessment)

Section 45(5), note—

omit, insert—

Notes—

- 1 See section 275ZI in relation to restrictions on impact assessment for particular applications.
- 2 See section 275ZJ for the matters the chief executive must have regard to when deciding an application involving a State heritage place.

96B Amendment of s 55 (Referral agency’s assessment)

Section 55(2), note, ‘277’—

omit, insert—

275ZJ

96C Insertion of new s 65A

After section 65—

insert—

65A Regulation about particular conditions

- (1) A regulation may provide that a development condition imposed on the following development approvals may relate to the provision of an affordable housing component on the premises the subject of the approval—
 - (a) a development approval given or changed by the chief executive under part 6A;
 - (b) a development approval given for an application that—
 - (i) specifically proposes the provision of an affordable housing component; and
 - (ii) complies with the criteria prescribed by regulation.
- (2) Section 65(1) does not apply in relation to a development condition imposed under subsection (1).
- (3) In this section—

[s 96D]

affordable housing component means a component of development that—

- (a) involves housing that is affordable for particular types of households; and
- (b) complies with the criteria prescribed by regulation.

96D Amendment of s 66 (Prohibited development conditions)

Section 66(3), note—

omit, insert—

Note—

For other restrictions on development conditions, see section 275ZI and the *Environmental Offsets Act 2014*, section 14.

96E Amendment of s 105 (Deciding called in application)

Section 105(4)(a), ‘section 64’—

omit, insert—

sections 64 and 275ZI

96F Insertion of new ch 7, pt 4D

Chapter 7—

insert—

Part 4D Heritage places

275ZI Restriction on impact assessment and conditions for particular applications

- (1) This section applies in relation to a development application for assessable development if the assessment manager for the application is a person other than the chief executive.

-
- (2) If the development application requires impact assessment, the impact assessment must not be carried out against, or having regard to, the effect or impact of the development on the stated cultural heritage significance of a Queensland heritage place.
 - (3) Subsection (2) applies despite section 45(5)(b).
 - (4) The assessment manager must not, under section 60, impose on a development approval given for the development application a development condition that—
 - (a) relates to the effect or impact of the development on the stated cultural heritage significance of a Queensland heritage place; or
 - (b) is inconsistent with a development condition that—
 - (i) is required to be imposed under a referral agency’s response; and
 - (ii) relates to the effect or impact of the development on the stated cultural heritage significance of a Queensland heritage place.
 - (5) To remove any doubt, it is declared that this section applies even if the Queensland heritage place is also a local heritage place.

**96G Amendment, relocation and renumbering of s 277
(Assessment and decision rules for particular State
heritage places)**

- (1) Section 277, heading, after ‘particular’—
insert—

development involving

- (2) Section 277(5), definition *Queensland heritage register*—

[s 96H]

omit.

(3) Section 277—

relocate to chapter 7, part 4D, as inserted by this Act, and
renumber as section 275ZJ.

96H Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

Queensland heritage register see the Heritage Act, schedule.

stated cultural heritage significance, of a Queensland heritage place, means the cultural heritage significance of the place as stated in the Queensland heritage register under the Heritage Act, section 31(3)(e) or (f).

Part 6 Amendment of Planning and Environment Court Act 2016

Division 1 Preliminary

97 Act amended

This part amends the *Planning and Environment Court Act 2016*.

Division 2 Amendments commencing on assent

98 Amendment of s 45 (Who must prove case)

(1) Section 45(1)—

insert—

(e) a decision of the Minister under chapter 7, part 4 of the Planning Act.

(2) Section 45(2), after ‘application’—

insert—

, or a change application under the Planning Act,

99 Insertion of new pt 10, div 3

Part 10—

insert—

Division 3 Transitional provision for Housing Availability and Affordability (Planning and Other Legislation Amendment) Act 2024

83 Application of new s 45 to particular Planning Act appeals

(1) This section applies to the following Planning Act appeals—

(a) a Planning Act appeal that—

(i) was started before the commencement;
and

(ii) immediately before the commencement, had not been finally dealt with;

(b) a Planning Act appeal started after the commencement, whether or not the matter to which the appeal relates arose before the commencement.

(2) New section 45 applies in relation to the Planning

[s 100]

Act appeal.

(3) In this section—

new section 45 means section 45 as in force from the commencement.

Division 3 Amendments commencing by proclamation

100 Amendment of s 11 (General declaratory jurisdiction)

Section 11(2), after ‘division 3’—

insert—

or part 6A

101 Amendment of s 12 (Declaratory jurisdiction for Minister’s call in of development application)

(1) Section 12, heading, from ‘Minister’s’—

omit, insert—

particular matters under Planning Act

(2) Section 12(1)(b), ‘development’—

omit, insert—

application

(3) Section 12—

insert—

(1A) Also, this section applies to the assessment manager for a development application or proposed development application if—

(a) the application is declared to be an application for State facilitated development under the Planning Act, section 106D; and

- (b) when the declaration took effect, the assessment manager had not decided, or had refused, the application.
- (4) Section 12(2), after ‘call in’—
insert—
or declaration
- (5) Section 12(1A) and (2)—
renumber as section 12(2) and (3).

102 Amendment of sch 1 (Dictionary)

Schedule 1, definition *declaratory proceeding*, ‘12(2)’—
omit, insert—
12(3)

Part 8 Other amendments

108 Legislation amended

Schedule 1 amends the legislation it mentions.

Schedule 1 Other amendments

section 108

Part 1 Amendments commencing on assent

Integrated Resort Development Act 1987

1 Section 99(1)(a) and (b)—

omit, insert—

- (a) if the body corporate has a website—publishing the notice on the website; and
- (b) giving the notice in writing to each member of the body corporate who is the proprietor of a lot access to which is likely to be affected by the closure.

Sanctuary Cove Resort Act 1985

1 Section 55(1)(a) and (b)—

omit, insert—

- (a) if the body corporate has a website—publishing the notice on the website; and
- (b) giving the notice in writing to each member of the body corporate who is the proprietor

of a lot access to which is likely to be affected by the closure.

Part 2 **Amendments commencing by proclamation**

Queensland Heritage Act 1992

1 **Section 8(1)(e), note, ‘section 277’—**

omit, insert—

section 275ZJ

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