



State Development and Public Works Organisation Act 1971

Reprinted as in force on 23 February 2009

Reprint No. 6

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Information about this reprint

This Act is reprinted as at 23 February 2009. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use different spelling consistent with current drafting practice (s 26(2))
- use standard punctuation consistent with current drafting practice (s 27)
- use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

State Development and Public Works Organisation Act 1971

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State Development and Public Works Organisation Act 1971

[as amended by all amendments that commenced on or before 23 February 2009]

An Act to provide for State planning and development through a coordinated system of public works organisation, for environmental coordination, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *State Development and Public Works Organisation Act 1971*.

2 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

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Part 2 Administration

Division 1 Coordinator-General and Deputy Coordinator-General

3 Administration of Act

This Act shall be administered by the Minister and, subject to the Minister, by the Coordinator-General.

4 Appointment of Coordinator-General

- (1) The Governor in Council, may, by commission under his or her hand and the Public Seal, appoint a person to hold the office of Coordinator-General.
- (2) The appointee shall be paid, during his or her tenure of office, a salary at such rate as the Governor in Council determines from time to time.

5 Appointment of Deputy Coordinator-General

- (1) The Governor in Council may, by commission under his or her hand and the Public Seal, appoint a person or persons to hold the office of Deputy Coordinator-General.
- (2) An appointee shall be paid, during his or her tenure of office, a salary at such rate as the Governor in Council determines from time to time.

6 Tenure of appointment under ss 4 and 5

Subject to this section, an appointee to an office referred to in section 4 or 5 shall hold office for the period fixed by the Governor in Council and specified in the instrument whereby the appointee is appointed but shall be eligible for reappointment thereto unless the appointee has become debarred under any Act from holding or continuing in such office.

7 Termination of appointment under ss 4 and 5

- (1) A person appointed to an office referred to in section 4 or 5 shall be deemed to have vacated his or her office in the following circumstances—
- (a) if the person engages in remunerative employment save the duties of the office to which the person is so appointed or of any office which the person holds by reason of his or her holding that appointment;
 - (b) if the person engages in any trade or business save as a member of a body corporate that consists of more than 20 persons;
 - (c) if the person becomes bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
 - (d) if the person absents himself or herself from duty for 14 consecutive working days or for a total of 28 days in any calendar year save on account of illness or pursuant to leave approved by the Minister who is hereby empowered so to do;
 - (e) if the person is convicted in the State of an indictable offence for which the person is liable to be imprisoned for 12 months at the least or is convicted elsewhere of an offence that, if committed by the person in the State would constitute an indictable offence upon conviction whereof the person would be so liable;
 - (f) if the person dies;
 - (g) if the person is concerned in any agreement made for the purposes of this Act save in the person's capacity as Coordinator-General or, as the case may be, Deputy Coordinator-General or, save as aforesaid, if the person participates in or claims to be entitled to participate in the profits arising from such an agreement;
 - (h) if the person resigns by signed written notice addressed to the Governor in Council and furnished to the Minister.

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- (2) A person appointed to an office referred to in section 4 or 5 may be removed from office by the Governor in Council on account of misbehaviour, incapacity, or being unfit, in the opinion of the Governor in Council, to hold the office.

Division 2 Incorporation of Coordinator-General and functions

8 Incorporation of Coordinator-General

- (1) The corporation sole constituted under section 8A of the *State Development and Public Works Organisation Act 1938* is hereby preserved, continued in existence and constituted under this Act under the name and style The Coordinator-General.
- (2) The corporation sole is constituted by the person who at the material time is the Coordinator-General.
- (3) The corporation sole under the name and style assigned to it by this section shall have perpetual succession and an official seal and shall be capable in law of suing and being sued and, subject to this Act, may take, acquire by grant, purchase, take on lease, sell, exchange, lease, assign, transfer, surrender to the Crown and hold property real and personal and may do and suffer all such acts and things as are necessary for the proper exercise and performance of the powers, functions and duties of the Coordinator-General to the same extent as a natural person might do or suffer.
- (4) All courts, judges, justices and persons acting in a judicial capacity shall take judicial notice of the appointment of the Coordinator-General and of a Deputy Coordinator-General and of their respective signatures and of the official seal of the Coordinator-General affixed to any document, and, in the absence of proof to the contrary, shall presume that such signature or seal was duly affixed.

9 Coordinator-General represents Crown

For the purposes of this Act the Coordinator-General represents the Crown and has and may exercise all the powers, privileges, rights and remedies of the Crown.

10 Functions and duties of Coordinator-General

- (1) The Coordinator-General shall have such functions and shall perform such duties as are assigned to the Coordinator-General by this Act or by regulation made under this Act or by or under any other Act.
- (2) The Coordinator-General shall, of his or her own motion or at the direction of the Minister, undertake and commission such investigations, prepare such plans, devise such ways and means, give such directions, and take such steps and measures, as the Coordinator-General thinks necessary or desirable to secure the proper planning, preparation, execution, coordination, control and enforcement of a program of works, planned developments, and environmental coordination for the State and for areas over which the State claims jurisdiction.
- (3) The Coordinator-General shall furnish to the Minister such recommendations as the Coordinator-General thinks fit to make concerning any matter that arises out of or is connected with the performance by the Coordinator-General of his or her functions and duties assigned to the Coordinator-General by or under this Act or that may assist in the proper administration of this Act.

11 Power of delegation

- (1) Subject to section 111, the Coordinator-General, with the approval of the Minister, may either generally or otherwise as provided by the instrument of delegation, by writing under the Coordinator-General's seal, delegate to any person or body of persons all or any of the Coordinator-General's powers, functions and duties except this power of delegation.

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- (2) A power, function or duty so delegated, if exercised or performed by the delegate, shall be exercised or performed by the delegate in accordance with the instrument of delegation.
- (3) A delegation may be limited to any part or parts of the State and may be made subject to such terms as the Coordinator-General thinks fit including a requirement that the delegate shall report to the Coordinator-General upon the delegate's exercise or performance of the delegated power, function or duty.
- (4) Where pursuant to this Act or to any other Act the exercise or performance of any power, function or duty, the subject of a delegation, is made to depend upon the opinion or belief of the Coordinator-General in relation to any matter, that power, function or duty may be exercised or performed upon the opinion or belief of the delegate who is considering the exercise or performance of that power, function or duty.
- (5) The Coordinator-General may make such and so many delegations of the same power, function or duty and to such number of persons or bodies of persons as the Coordinator-General considers necessary or desirable.
- (6) A delegation is revocable at the will of the Coordinator-General and does not prevent the exercise of a power or the performance of a function or duty by the Coordinator-General.

12 Power to hold inquiry

- (1) The Coordinator-General may, of his or her own motion, and shall, at the direction of the Minister, institute and conduct an inquiry into any matter that, in the opinion of the Coordinator-General or of the Minister, is one with which the Coordinator-General should be concerned in the proper performance of the Coordinator-General's functions under any Act or that would further the purposes of this Act.
- (2) The Governor in Council may, in relation to a particular inquiry to be conducted under this Act, upon the recommendation of the Minister, declare by regulation that

the inquiry therein specified shall be conducted as a commission of inquiry under the *Commissions of Inquiry Act 1950* whereupon the Coordinator-General or, as the case may be, the Coordinator-General's delegate who conducts the inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under that Act and of a chairperson of such a commission except such as are by that Act confined to a chairperson who is a judge of the Supreme Court and the provisions of that Act shall apply accordingly.

13 Cooperation with Coordinator-General

- (1) Subject to this section, it is the duty of—
- (a) a local body and, where it is a corporation, of every person who comprises it;
 - (b) the chief executive of a department of the Government;
 - (c) a corporation constituted for the purposes of any Act or that, being incorporated by the law of the State, is an instrumentality or agency of the Crown, and of every person who comprises it;
 - (d) the holder of any office provided for by any Act;
 - (e) a person in the employ of a local body, or in the employ of such corporation or holder for the purposes of the material Act, or employed in such a department;
- to cooperate with the Coordinator-General in the performance by him or her of the functions and duties of the Coordinator-General.
- (2) Without limit to the duty imposed by subsection (1) a person subject thereto—
- (a) shall consult with and make his or her services available to the Coordinator-General in connection with works, whether constructed, in course of construction, or to be constructed and in connection with any other matter that concerns the Coordinator-General; and

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- (b) shall confer, as requested by the Coordinator-General, on any matter that concerns development, planning, or environmental effects within the State or within any area over which the State claims jurisdiction and on any other matter that concerns the Coordinator-General; and
 - (c) shall, as required by the Coordinator-General, furnish to the Coordinator-General accurate information in the possession of or available to that person in the capacity whereby he or she is subject to this section concerning such matters as in the Coordinator-General's opinion would assist the Coordinator-General in the discharge of his or her functions or duties.
- (3) This section shall be construed to apply—
- (a) save where the Minister directs to the contrary in a particular case, proof whereof shall lie upon the person who alleges it;
 - (b) in relation to the furnishing of information, subject to the provisions of any Act that expressly require a person employed under that Act to preserve and aid in preserving secrecy with regard to all matters that may come to the person's knowledge in the person's official capacity.

14 Appointment of persons to aid Coordinator-General

The Governor in Council may appoint any person to act in aid of the Coordinator-General in respect of particular works or other matter that concerns the Coordinator-General and the appointee, while the appointee so acts, shall be paid a salary at a rate determined from time to time by the Governor in Council.

Division 3 Officers and workers of Coordinator-General

15 Appointment of workers

- (1) The Coordinator-General may employ such workers as the Coordinator-General considers necessary for the proper performance by the Coordinator-General of his or her functions and duties and the proper exercise by the Coordinator-General of his or her powers.
- (2) The wages payable to a worker so employed and the conditions of his or her employment shall comply with the requirements of any material award of an industrial tribunal or of any material industrial agreement and, subject thereto or where there is no such award or agreement, shall be as determined from time to time by the Coordinator-General.

16 Services of technical advisers

- (1) The Coordinator-General may obtain or retain the advice or services of such technical advisers as the Coordinator-General considers necessary for the proper performance by the Coordinator-General of his or her functions and duties and the proper exercise by the Coordinator-General of his or her powers.
- (2) Remuneration in respect of such advice or services shall be such as is approved by the Minister.

Part 3 Program of works

17 Program of works

- (1) The Coordinator-General may, of his or her own motion, and shall, at the direction of the Minister, plan in respect of a particular period—

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- (a) a program of works for the State or for any part of the State or for any area over which the State claims jurisdiction;
 - (b) the orderly carrying out over that period or during any portion or portions of that period of the whole or any part of the works included in the program.
- (2) For the purpose of planning a program of works the Coordinator-General may require any person who is required by this Act to cooperate with the Coordinator-General to furnish to him or her—
- (a) particulars of all works proposed to be carried out by or under the authority or supervision of that person during the period in question;
 - (b) such information as the Coordinator-General considers necessary to enable the Coordinator-General to have proper regard to the matters prescribed by section 23 as matters to be regarded in relation to a program of works.
- (3) Particulars and information furnished to the Coordinator-General pursuant to the Coordinator-General's requisition shall be verified in manner directed by the Coordinator-General, including (should the Coordinator-General so direct) by way of statutory declaration.

18 Selection of works for program of works and their performance

- (1) Works to be included in a program of works shall be at the discretion of the Coordinator-General.
- (2) A program of works may include works that have been submitted to the Coordinator-General by a local body or other person for inclusion in a program of works or that are included therein on the initiative of the Coordinator-General in addition to or in lieu of works so submitted.
- (3) The Coordinator-General may plan that works included in a program of works shall be undertaken by the

Coordinator-General or by his or her agent, or by any local body or person who is required or permitted under or pursuant to any Act so to do.

19 Submission of program of works to Governor in Council

- (1) The Coordinator-General shall furnish his or her plan for a program of works to the Minister who, if the Minister approves of it, shall submit the same to the Governor in Council for approval.
- (2) If the Governor in Council approves of the program submitted the Governor in Council may, having regard to the need for Parliamentary appropriation to the material purposes, publish a notice in the gazette that evidences the Governor in Council's approval and authorises the program to be implemented.
- (3) Upon publication of the notice the program (as altered from time to time by the Coordinator-General in accordance with this Act) shall be the program of works for the State and shall be binding on the Coordinator-General and on all other persons concerned in that program.
- (4) If the Governor in Council does not approve of the program submitted, the Governor in Council shall cause the Minister to return the program together with the Governor in Council's objections thereto and comments thereon to the Coordinator-General who, upon consideration thereof, shall make to the program such alterations as the Coordinator-General considers warranted in the circumstances.
- (5) The program as so altered shall be again furnished to the Minister and submitted to the Governor in Council as prescribed by subsection (1).

20 Alterations to approved program of works

- (1) The Coordinator-General may make such alterations to a program of works approved by the Governor in Council as the

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Coordinator-General considers warranted in the circumstances.

- (2) The Coordinator-General shall not exercise the power conferred on him or her by this section except with the consent of the Minister first had and obtained save where the alteration will not result in additional expenditure in a sum exceeding \$50000 or such other amount as is prescribed under a regulation.

21 Implementation of program of works as approved

In giving effect to a program of works approved by the Governor in Council no modification or addition shall be made to any of the works included therein save with the consent of the Coordinator-General first had and obtained.

22 Local body's application for assistance examined by Coordinator-General

- (1) Every application that moneys be paid from the Treasury in respect of works or proposed works of a local body or that the Treasurer, on behalf of the Government, guarantee the amount or any part of the amount of a loan made or to be made in respect of works or proposed works of a local body shall be submitted to the Coordinator-General together with such particulars relevant thereto as the Coordinator-General considers necessary.
- (2) The Coordinator-General, having regard to the importance and merit of the works for which the moneys or guarantee is sought relative to any program of works planned or being planned by the Coordinator-General at the time of the submission of the application to the Coordinator-General, shall make to the Treasurer such recommendations with respect thereto as the Coordinator-General thinks fit.
- (3) In determining how an application referred to in subsection (1) should be disposed of due weight shall be given to the recommendations made by the Coordinator-General with respect to the application.

23 Objectives of comprehensive program of works

With a view to the coordination, regulation and control of a comprehensive program of works for the development of the State regard shall be had by the Coordinator-General and all other persons concerned to the following considerations—

- (a) the orderly arrangement and revision of a general program of works for the State;
- (b) the creation of additional means and methods of development and of employment;
- (c) the maintaining of continuity of work in the various parts of the State on a basis of reasonable uniformity;
- (d) the provision of ways and means whereby finance in respect of works and the creation of works may be spread over the State in equitable proportions;
- (e) the allocation, on terms advantageous to the welfare of the State generally, of finance by way of loans and otherwise amongst the departments of the Government and local bodies;
- (f) the examination and review of larger developmental works generally with a view to a selection by the Governor in Council of works that, while conferring a greater amount of aid to the general employment position of the State, also offer greater possibilities as productive works;
- (g) the establishment of a policy of coordinated relationship among departments of the Government and local bodies with a view to—
 - (i) securing coordination and cooperation in activities connected with works and construction; and
 - (ii) evolving schemes for providing employment and for improving the general economic development and the public amenity of the State; and
 - (iii) avoiding or minimising duplication and overlapping in the services and activities of

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departments of the Government and of local bodies generally;

- (h) the securing of cooperation and assistance of persons engaged in industry otherwise than within departments of the Government or within local bodies with a view to aiding the general employment position in the State.

Part 4 Environmental coordination

Division 1 Preliminary

24 Definitions for pt 4

In this part—

approval includes authority, lease, licence, permit or other approval.

assessment manager, for an application, means the assessment manager under the Integrated Planning Act.

Coordinator-General's change report see section 35I(1).

Coordinator-General's report, for an EIS, means the report the Coordinator-General must prepare under section 35(3).

environmental authority (mining lease) means an environmental authority (mining lease) under the Environmental Protection Act.

Environmental Protection Act means the *Environmental Protection Act 1994*.

EPA Minister means the Minister for the time being administering the Environmental Protection Act.

imposed condition, for the undertaking of a project, see section 54B(2).

Mineral Resources Act means the *Mineral Resources Act 1989*.

MRA Minister means the Minister for the time being administering the Mineral Resources Act.

nominated entity, for an imposed condition for the undertaking of a project, means an entity nominated for the condition, under section 54B(3).

properly made submission, for an EIS or a proposed change to a project, means a submission that—

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

proponent means the person who proposes a significant project and includes a person who, under an agreement or other arrangement with the person who is the existing proponent of the project, later proposes the project.

relevant local government, for a project, means the local government for the local government area in which the project is, or is to be, undertaken.

significant project means a project declared under section 26 to be a significant project.

submission period, for a submission about an EIS, see section 33(1)(d).

25 Supervision of environment

The Coordinator-General shall, of the Coordinator-General's own motion or at the direction of the Minister, coordinate departments of the Government and local bodies throughout

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the State in activities directed towards ensuring that in any development proper account is taken of the environmental effects.

Division 1A Coordinator-General's costs of environmental coordination process

25A Fees for pt 4

- (1) An application under this part must be accompanied by the relevant application fee stated in schedule 1.
- (2) The Coordinator-General must refuse to receive the application unless the fee has been paid.
- (3) The proponent for a significant project must pay the Coordinator-General the fees stated in schedule 1 at the times provided for under the schedule.
- (4) If a fee stated in schedule 1 becomes payable under subsection (3), the Coordinator-General's obligations under this part for the significant project are suspended until the fee has been paid.
- (5) Subsection (4) applies despite any other provision of this part.

25B Recovering the cost of advice or services for environmental coordination

- (1) This section applies if the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to—
 - (a) decide an application under this part by a proponent of a project; or
 - (b) take action under this part relating to a significant project.
- (2) The Coordinator-General may recover from the proponent as a debt the reasonable cost of obtaining the advice or services.

Division 2 Significant project

Subdivision 1 Power to declare significant project

26 Declaration of significant project

- (1) The Coordinator-General may—
 - (a) declare a project to be a significant project for which an EIS is required; or
 - (b) declare a project to be a significant project for which an EIS is not required.
- (2) However—
 - (a) the Coordinator-General may make a declaration under subsection (1)(b) only if satisfied appropriate environmental assessments under another Act will be carried out in relation to the project; and
 - (b) the Coordinator-General must not make a declaration under subsection (1)(b) if undertaking the project will result in broadscale clearing for agricultural purposes.
- (3) For subsection (2)(b), a project results in broadscale clearing for agricultural purposes if—
 - (a) undertaking the project will result in the clearing of vegetation that, other than for the making of the declaration, would involve assessable development mentioned in the *Integrated Planning Act 1997*, schedule 8, part 1, table 4, items 1A to 1G; and
 - (b) the Coordinator-General is satisfied the clearing is not for a matter or purpose mentioned in the *Vegetation Management Act 1999*, section 22A(2)(b) to (j).
- (4) The declaration must be made by gazette notice.
- (5) If the project involves development that requires an application for a development approval, the Coordinator-General must give a copy of the gazette notice to

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the person who is, or would be, the assessment manager for the application.

- (6) If the project involves a proposed environmental authority (mining lease), the Coordinator-General must give a copy of the gazette notice to the EPA and MRA Ministers.
- (7) If the project involves the proposed use of geothermal energy, as defined under the *Geothermal Exploration Act 2004*, the Coordinator-General must also give a copy of the gazette notice to the Minister administering that Act.
- (8) If the project involves a lease or licence under a petroleum Act, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering the Act.
- (9) If the project involves a proposed GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering that Act.
- (10) In this section—
petroleum Act means—
 - (a) the *Petroleum Act 1923*; or
 - (b) the *Petroleum and Gas (Production and Safety) Act 2004*; or
 - (c) the *Petroleum (Submerged Lands) Act 1982*.

27 Matters Coordinator-General considers before making declaration

In considering whether the project should be declared a significant project, the Coordinator-General must have regard to 1 or more of the following—

- (a) detailed information about the project given by the proponent in an initial advice statement;

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- (b) relevant planning schemes or policy frameworks, including those of a relevant local government or of the State or the Commonwealth;
 - (c) the project's potential effect on relevant infrastructure;
 - (d) the employment opportunities that will be provided by the project;
 - (e) the potential environmental effects of the project;
 - (f) the complexity of local, State and Commonwealth requirements for the project;
 - (g) the level of investment necessary for the proponent to carry out the project;
 - (h) the strategic significance of the project to the locality, region or the State.

Subdivision 2 Applying for and obtaining significant project declaration

27AA Who may apply

- (1) The proponent of the project may apply to the Coordinator-General for a declaration under section 26(1) about the project.
- (2) To remove any doubt, it is declared that this subdivision does not prevent the Coordinator-General from making a declaration under section 26(1) on the Coordinator-General's own initiative.

27AB Requirements for application

The application must be written and include—

- (a) an initial advice statement mentioned in section 27(a);
and

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- (b) enough information about the project to allow the Coordinator-General to consider the matters mentioned in section 27(b) to (h) for the project.

27AC Deciding application

- (1) The Coordinator-General must decide whether or not to make the declaration.
- (2) Sections 26(2) and (3) and 27 apply for the making of the decision.
- (3) If the Coordinator-General decides not to make the declaration, the Coordinator-General must give the applicant written notice of the decision and the reasons for it.

Subdivision 3 Miscellaneous provisions

27AD Application of Judicial Review Act 1991

The *Judicial Review Act 1991*, parts 3 and 5, other than section 41(1), do not apply to a decision, action or conduct of the Coordinator-General under this part relating to the project.

Editor's note—

Judicial Review Act 1991, part 3 (Statutory orders of review) and part 5 (Prerogative orders and injunctions)

27A Lapsing of declaration

- (1) If an EIS is required for the project, the declaration lapses if the proponent does not comply with section 32(4).
- (2) If an EIS is not required, the declaration lapses—
 - (a) generally—at the end of the 4 years starting the day the declaration was made; or
 - (b) if the declaration states or implies a time for it to lapse—at the stated or implied time.

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- (3) However, if before the lapsing of the declaration under subsection (1) or (2), the Coordinator-General, by written notice to the proponent, fixes a later time for the declaration to lapse, it does not lapse until the later time.

28 Application of divs 3–6

Divisions 3 to 6 apply only if the project is declared, under section 26, to be a significant project for which an EIS is required.

Division 3 EIS process

29 Notice of requirement for EIS and of draft terms of reference

- (1) The Coordinator-General must—
- (a) advise the proponent that an EIS is required for the project; and
 - (b) publicly notify—
 - (i) that an EIS is required for the project; and
 - (ii) where copies of the draft terms of reference may be obtained; and
 - (iii) that comments on the draft terms of reference are invited.
- (2) The public notification must state a period within which the comments must be made under subsection (1)(b).

30 Finalising terms of reference

- (1) The Coordinator-General must, as soon as practicable after the comment period ends, finalise the terms of reference for the EIS and give the proponent a copy.

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- (2) In finalising the terms of reference, the Coordinator-General must have regard to comments on the draft terms of reference received by the Coordinator-General within comment period.
- (3) In this section—
comment period means the period stated under section 29(2).

31 Coordinator-General may seek information to assist preparation of EIS

- (1) The Coordinator-General may refer details of the project, the initial advice statement and the terms of reference, to any entity the Coordinator-General considers may be able to give the Coordinator-General comment and information that will help in preparing the EIS.
- (2) If the entity wants the proponent to consider its response when preparing the EIS, the entity must give its response to the Coordinator-General within the reasonable time stated by the Coordinator-General for giving the response (the *response time*).
- (3) If the entity does not give its response within the response time, the proponent may prepare the EIS as if the entity had no comment on the project.

32 Preparation of EIS

- (1) The EIS prepared by the proponent—
 - (a) must, for the whole project, address the terms of reference to the satisfaction of the Coordinator-General;
or
 - (b) may, for a particular stage of the project, address the terms of reference to the satisfaction of the Coordinator-General.
- (2) If the proponent prepares an EIS under subsection (1)(b), the proponent may prepare a further EIS under this division for another or all remaining stages of the project.

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- (3) A further EIS prepared under subsection (2) must be given to the Coordinator-General by the day stated in the Coordinator-General's report for giving the Coordinator-General the further EIS.
 - (4) Subject to subsection (3), an EIS must be given to the Coordinator-General within—
 - (a) 2 years after finalisation under section 30 of the terms of reference for the EIS; or
 - (b) if within the 2 years the Coordinator-General, by written notice to the proponent, fixes a later period for the giving of the EIS—the later period.

33 Public notification of EIS

- (1) After the proponent has prepared an EIS to the satisfaction of the Coordinator-General, the proponent must publicly notify the following—
 - (a) where a copy of the EIS is available for inspection;
 - (b) where a copy of the EIS may be obtained at a stated reasonable cost;
 - (c) that submissions may be made to the Coordinator-General about the EIS;
 - (d) the period (the *submission period*), set by the Coordinator-General, during which a submission may be made.
- (2) For subsection (1)(b), the stated reasonable cost must not be more than the actual cost of producing the copy.

34 Making submissions on EIS

- (1) During the submission period, any person may make a submission to the Coordinator-General about the EIS.
- (2) The Coordinator-General must accept properly made submissions.

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- (3) However, the Coordinator-General may accept a written submission even if the submission is not a properly made submission.
- (4) If the Coordinator-General has accepted a submission, the person who made the submission may, by written notice given to the Coordinator-General—
 - (a) during the submission period—amend the submission; or
 - (b) at any time before a decision about the EIS is made—withdraw the submission.

35 Coordinator-General evaluates EIS, submissions, other material and prepares report

- (1) The Coordinator-General must, after the end of the submission period, consider the EIS, all properly made submissions and other submissions accepted by the Coordinator-General about the EIS and any other material the Coordinator-General considers is relevant to the project.
- (2) The Coordinator-General may ask the proponent for additional information or comment about the EIS and the project.
- (3) The Coordinator-General must prepare a report evaluating the EIS.
- (4) In evaluating the EIS, the Coordinator-General may—
 - (a) evaluate the environmental effects of the project and any other related matters; and
 - (b) state conditions under section 39, 45, 47C, 49, 49B or 49E; and
 - (c) make recommendations under section 43 or 52; and
 - (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.
- (5) After completing the report, the Coordinator-General must—

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- (a) give a copy of it to the proponent; and
 - (b) publicly notify the report.

35A Lapsing of Coordinator-General's report

- (1) The Coordinator-General's report for the EIS for the project lapses—
 - (a) generally—at the end of the 4 years starting the day after the report is prepared under section 35(3); or
 - (b) if the report states or implies a time for it to lapse—at the stated or implied time; or
 - (c) if, before the end of the 4 years or before the stated or implied time, the proponent applies for an approval for the project, on the latest of the following to happen—
 - (i) the deciding of the application;
 - (ii) if the application is refused—
 - (A) the end of any period to appeal against the refusal; or
 - (B) if, within the period, an appeal is made against the refusal, the appeal is finally decided or is otherwise ended.
- (2) However, if before the lapsing of the report under subsection (1), the Coordinator-General, by written notice to the proponent, fixes a later time for the report to lapse, it does not lapse until the later time.
- (3) Also, the report does not lapse if—
 - (a) division 8 applies to the project; and
 - (b) there are imposed conditions for the undertaking of the project; and
 - (c) the undertaking of the project substantially starts within 4 years after the report is prepared under section 35(3).

[s 35B]

Division 3A Changes to project

35B Application of div 3A

This division applies if, after the Coordinator-General complies with section 35(5), the proponent wishes the Coordinator-General to assess a proposed change to the project or a condition of the project.

35C Application for evaluation of environmental effects of proposed change

The proponent may apply to the Coordinator-General to evaluate, under this division, the environmental effects of the proposed change, its effects on the project and any other related matters.

35E Requirements for application

The application must be written and—

- (a) describe the proposed change and its effects on the project; and
- (b) state reasons for the proposed change; and
- (c) include enough information about the proposed change and its effects on the project to allow the Coordinator-General to make the evaluation.

35F Coordinator-General may seek comments or information

- (1) After receiving the application, the Coordinator-General may—
 - (a) refer details of the proposed change, its effects on the project or any other related matter to anyone the Coordinator-General considers may be able to give comments or information to help the making of the evaluation; and

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- (b) ask the proponent for further information about the proposed change, its effects on the project or any other related matter.
 - (2) If the proponent does not comply with a request under subsection (1)(b) within a reasonable period after it is made, the Coordinator-General may make the evaluation without the further information.

35G Public notice

- (1) The Coordinator-General must decide whether or not to require the proponent to publicly notify the proposed change and its effects on the project, in a way decided by the Coordinator-General.
- (2) The Coordinator-General must give the proponent a written notice (the *decision notice*) stating the decision, and if the decision was to make a requirement under subsection (1), the decided way of public notification.
- (3) If the decision is to require public notification, the decision notice must be given before the evaluation is made.
- (4) Sections 33 and 34 apply to the public notification, and for submissions about the proposed change and its effect on the project, as if a reference in those sections to an EIS was a reference to the proposed change or the effects.
- (5) Subsections (6) to (8) apply if the decision is not to require public notification.
- (6) If the Coordinator-General is of the opinion that the proposed change might be approved unconditionally, the Coordinator-General may defer giving the decision notice.
- (7) If the Coordinator-General's opinion under subsection (6) changes or if the Coordinator-General is not of that opinion, the Coordinator-General must immediately give the decision notice.
- (8) If the proposed change is approved unconditionally, the decision notice must accompany the Coordinator-General's

[s 35H]

change report when it is given to the proponent under section 35J.

(9) In this section—

approved unconditionally, for the proposed change, means that the evaluation allows the change without the Coordinator-General doing anything mentioned in section 35I(2).

35H Criteria for evaluating

In making the evaluation, the Coordinator-General must consider each of the following—

- (a) the nature of the proposed change and its effects on the project;
- (b) the project as currently evaluated under the Coordinator-General's report for the EIS for the project;
- (c) the environmental effects of the proposed change and its effects on the project;
- (d) if, under section 35G, public notification was required—all properly made submissions about the proposed change and its effects on the project;
- (e) the material mentioned in section 35(1) to the extent the Coordinator-General considers it is relevant to the proposed change and its effects on the project.

35I Coordinator-General's change report

- (1) The Coordinator-General must prepare a report (a *Coordinator-General's change report*) that makes the evaluation.
- (2) In making the evaluation, the Coordinator-General may—
 - (a) state conditions of a type mentioned in section 39, 45, 47C, 49, 49B or 49E that are relevant to the proposed change, its effects on the project or any other related matter; and

- (b) make recommendations of a type mentioned in section 43 or 52 that are relevant to the proposed change, its effects on the project or any other related matter; and
 - (c) amend any conditions or recommendations for the project stated or made under section 35(4); and
 - (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.
- (3) The evaluation may refuse to allow the proposed change.
 - (4) If the evaluation refuses to allow the proposed change, it must state reasons for the refusal.

35J Distribution of Coordinator-General's change report

After completing the Coordinator-General's change report, the Coordinator-General must—

- (a) give a copy of it to the proponent; and
- (b) publicly notify the report.

35K Relationship with Coordinator-General's report

- (1) The Coordinator-General's report for the EIS for the project and the Coordinator-General's change report both have effect for the project.
- (2) However, if the reports conflict, the Coordinator-General's change report prevails to the extent of the inconsistency.

35L Lapsing of Coordinator-General's change report

The Coordinator-General's change report lapses on the lapsing, under section 35A, of the Coordinator-General's report for the EIS for the project.

37A Applications for material change of use of premises in wild river areas

- (1) This section applies to the extent the application is—
 - (a) for a material change of use of premises in a wild river area; and
 - (b) made to the assessment manager after the wild river declaration for the area takes effect.
- (2) Despite section 37—
 - (a) the information and referral stage of IDAS applies to the application; and
 - (b) the referral agencies, under the Integrated Planning Act, for the application are the referral agencies required to assess the application against—
 - (i) the applicable code, for the development, mentioned in the wild river declaration for the area; or
 - (ii) the purpose of the *Wild River Act 2005*.
- (3) If there is any inconsistency between a condition the Coordinator-General's report states must attach to the development approval and a condition imposed by a referral agency mentioned in subsection (2)(b), the referral agency's condition prevails to the extent of the inconsistency.

38 When the decision stage for the project starts under IDAS

Despite the Integrated Planning Act, section 3.5.1, the decision stage of IDAS for the application does not start until—

- (a) if the Coordinator-General is not the assessment manager for the application—the Coordinator-General gives the assessment manager a copy of the Coordinator-General's report; or
- (b) if the Coordinator-General is the assessment manager for the application—the Coordinator-General gives the proponent a copy of the report.

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39 Application of Coordinator-General's report to IDAS

- (1) The Coordinator-General's report may state for the assessment manager 1 or more of the following—
 - (a) the conditions that must attach to the development approval;
 - (b) that the development approval must be for part only of the development;
 - (c) that the approval must be a preliminary approval only.
- (2) Alternatively, the report must state for the assessment manager—
 - (a) that there are no conditions or requirements for the project; or
 - (b) that the application for the development approval must be refused.
- (3) To remove any doubt, it is declared that subsection (1)(a) does not limit the assessment manager's power under the Integrated Planning Act to—
 - (a) assess the development application; and
 - (b) impose conditions not inconsistent with conditions that must be attached under subsection (1)(a).
- (3A) Subsections (3B) and (3C) apply to the extent the application is—
 - (a) for development in a wild river area; and
 - (b) made to the assessment manager after the wild river declaration for the area takes effect.
- (3B) Subsection (1)(a) does not limit the assessment manager's power, under the Integrated Planning Act, to—
 - (a) assess the application against the applicable code, for the development, mentioned in the wild river declaration for the area; and
 - (b) impose conditions inconsistent with conditions that must be attached under subsection (1)(a).

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- (3C) If there is any inconsistency between a condition mentioned in subsection (1)(a) and a condition imposed by the assessment manager under subsection (3B)(b), the assessment manager's condition prevails to the extent of the inconsistency.
 - (4) The report may only state the application must be refused if the Coordinator-General is satisfied there are environmental effects in relation to the development that can not be addressed adequately.
 - (5) The report must give reasons for the statement mentioned in subsection (2)(b).
 - (6) If the Coordinator-General's report provides for a condition that must be attached to any development approval—
 - (a) the report may state the entity that is to have jurisdiction for the condition after the development approval has taken effect under the Integrated Planning Act, section 3.5.19; and
 - (b) the condition is taken to be a concurrence agency condition under the Integrated Planning Act.

40 Assessment manager to be given copy of Coordinator-General's report

If the Coordinator-General is not the assessment manager for the application, the Coordinator-General must give a copy of the report to the assessment manager for the application.

41 Concurrence agencies for conditions of development approvals

- (1) Subsection (2) applies if, in the report, the Coordinator-General nominates an entity as a concurrence agency for a development approval, including a condition of the approval, given in relation to the report.
- (2) The entity is, from the day the approval takes effect, taken to be a concurrence agency for the development application that

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resulted in the approval, including the condition of the approval.

- (3) This section applies despite section 37(1)(b).

42 Changing or cancelling a condition of a development approval

- (1) Subsection (2) applies if, in the report, the Coordinator-General nominates an entity for a condition the Coordinator-General requires to be imposed on or attached to any development approval given in relation to the report.
- (2) For the Integrated Planning Act, section 3.5.33, the entity is, in addition to the assessment manager who gives the approval, the entity for the condition.

42A Application of Coordinator-General's change report to IDAS

- (1) This section applies if, under section 35J(a), the proponent is given a Coordinator-General's change report.
- (2) The change report is taken to be an amended concurrence agency response under the Integrated Planning Act, section 3.3.17(1), the contents of which the applicant has given written agreement to.
- (3) Subsection (4) applies if the change report was given—
 - (a) after the decision stage of IDAS started for the application; but
 - (b) before the assessment manager has made a decision on the application.
- (4) To remove any doubt, it is declared that the Integrated Planning Act, section 3.5.8 applies for the decision period for the application.
- (5) Subsection (6) applies if—

- (a) the change report was given after the assessment manager made a decision on the application (the *original application*); and
 - (b) the proposed change the subject of the change report involves development (the *new development*) under the Integrated Planning Act and, because of the new development—
 - (i) a new development application must be made under that Act; or
 - (ii) a change to the decided development approval for the original application, or to the conditions of the approval, must be made.
- (6) The proponent must take, or cause to be taken, the necessary steps under the Integrated Planning Act to obtain a development approval that authorises the new development to be carried out.
- (7) If subsection (6) applies because of subsection (5)(a) and (b)(i), sections 37 to 42 apply to the obtaining of the development approval as if—
- (a) a reference to the Coordinator-General’s report for the EIS for the project was a reference to the change report; and
 - (b) a reference to a properly made submission about the EIS was a reference to a properly made submission about the proposed change.
- (8) To remove any doubt, it is declared that subsection (5)(b)(ii) and (6) apply even if there is an undecided appeal against the decided development approval for the original application.

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Subdivision 2 Community infrastructure

43 Application of Coordinator-General's report to designation

- (1) This section applies if the project involves land for which a designation as community infrastructure under the Integrated Planning Act, section 2.6.8 may be made.
- (2) The Coordinator-General's report may recommend requirements for inclusion in the designation under the Integrated Planning Act, section 2.6.4(a).
- (3) In making the designation, the designator may have regard to the recommendation.

Division 5 Relationship with Mineral Resources Act

44 Application of div 5

This division applies if the project involves a proposed mining lease under the Mineral Resources Act.

45 Application of Coordinator-General's report to proposed mining lease

- (1) The Coordinator-General's report may state conditions (*Coordinator-General's conditions*) for the proposed mining lease.
- (2) If Coordinator-General's conditions are included in the report—
 - (a) the Coordinator-General must give the MRA Minister a copy of the report; and
 - (b) the conditions of the proposed mining lease are, subject to section 47, taken to include the Coordinator-General's conditions.

46 Coordinator-General's conditions override other conditions

- (1) This section applies if—
 - (a) the proposed mining lease is granted; and
 - (b) the conditions of the mining lease include a Coordinator-General's condition; and
 - (c) there is any inconsistency between the Coordinator-General's condition and another condition of the mining lease.
- (2) Subject to section 47, the Coordinator-General's condition prevails to the extent of the inconsistency.
- (3) In this section—

Coordinator-General's condition means—

 - (a) a Coordinator-General's condition that, under section 45, is taken to have been included in the proposed mining lease; or
 - (b) a condition that is substantially the same as a condition mentioned in paragraph (a).

47 Paramourncy of native title issues decision conditions

- (1) If there is any inconsistency between a Coordinator-General's condition under section 45 or 46 and a native title issues condition, the native title issues condition prevails to the extent of the inconsistency.
- (2) In this section—

native title issues condition means a condition imposed or made under, or as part of, the native title issues decision under the Mineral Resources Act.

47A Paramourncy of conditions determined or declared under Native Title Act 1993 (Cwlth)

- (1) This section applies if—

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- (a) there is any inconsistency between a Coordinator-General's condition under section 45 or 46; and
 - (b) a condition for the granting of the proposed mining lease determined or declared under the *Native Title Act 1993* (Cwlth) section 36A, 38 or 42.
- (2) The Coordinator-General's condition does not apply to the extent of the inconsistency.

Division 6 Relationship with Environmental Protection Act

Subdivision 1 Relationship for non-code compliant environmental authority (chapter 5A activities)

47B Application of sdiv 1

This subdivision applies if—

- (a) the project involves a proposed environmental authority (chapter 5A activities) under the Environmental Protection Act; and
- (b) were the proposed authority to be issued, it would be a non-code compliant authority for chapter 5A of that Act.

Note—

See the Environmental Protection Act, section 309B(4) (Types of environmental authorities (chapter 5A activities)).

47C Application of Coordinator-General's report to environmental authority

- (1) The Coordinator-General's report for the EIS for the project may state conditions for the proposed environmental authority.

- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the EPA Minister a copy of the report.

Subdivision 2 Relationship for environmental authority (mining lease)

48 Application of sdiv 2

This subdivision applies if the project involves a proposed environmental authority (mining lease).

49 Application of Coordinator-General's report to environmental authority (mining lease)

- (1) The Coordinator-General's report may state conditions for any draft environmental authority under the Environmental Protection Act for the proposed environmental authority (mining lease).
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the EPA Minister a copy of the report.

Division 6A Relationship with Petroleum and Gas (Production and Safety) Act 2004

49A Application of div 6A

This division applies if the project involves a proposed petroleum lease, pipeline licence or petroleum facility licence under the *Petroleum and Gas (Production and Safety) Act 2004*.

[s 49B]

49B Application of Coordinator-General's report to lease or licence

- (1) The Coordinator-General's report for the EIS for the project may state conditions for the proposed lease or licence.
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the Minister for the time being administering the Act under which the lease or licence is proposed to be granted a copy of the report.

49C Paramountcy of conditions determined or declared under Native Title Act 1993 (Cwlth)

- (1) This section applies if—
 - (a) the project involves a proposed petroleum lease; and
 - (b) there is any inconsistency between—
 - (i) a Coordinator-General's condition stated under section 49B; and
 - (ii) a condition for the granting of the proposed petroleum lease determined or declared under the *Native Title Act 1993* (Cwlth) section 36A, 38 or 42.
- (2) The Coordinator-General's condition does not apply to the extent of the inconsistency.

Division 6B Relationship with Greenhouse Gas Storage Act 2009

49D Application of div 6B

This division applies if the project involves a proposed GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*.

49E Application of Coordinator-General's report to proposed lease

- (1) The Coordinator-General's report for the EIS for the project may state conditions for the proposed lease.
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the Minister of the department in which the *Greenhouse Gas Storage Act 2009* is administered a copy of the report.

Division 7 Relationship with other legislation

50 Application of div 7

This division applies if an Act other than the Integrated Planning Act or the Environmental Protection Act, chapter 4A or 5, requires the preparation of an EIS, or a similar statement to address environmental effects, for the project.

51 EIS under this part is EIS for other Act

The EIS prepared under this part for the project is taken to be a statement that satisfies the requirement of the other Act.

52 Application of Coordinator-General's report to other approval process

- (1) The Coordinator-General's report may recommend to the person who may give an approval required for the project that—
 - (a) the approval be refused; or
 - (b) stated conditions be imposed on the approval.
- (2) Alternatively, the report must recommend that there are no conditions to be attached to any approval given under the other Act.
- (3) If the recommendation is to refuse the approval, the report must give reasons for the recommendation.

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53 Person approving project to be given copy of Coordinator-General's report

The Coordinator-General must give a copy of the Coordinator-General's report to the person required under the other Act to approve of the project.

54 Coordinator-General's report must be taken into consideration

The Coordinator-General's report must be taken into consideration by the person who may give an approval required for the project.

Division 8 Application of Coordinator-General's report if no relevant approval

54A Application of div 8

This division applies to the extent that—

- (a) the project does not involve a material change of use that, under the Integrated Planning Act, is impact assessable; and
- (b) division 4, subdivision 2 and divisions 5, 6, 6A and 7 do not apply to the project.

54B Report may impose conditions

- (1) Subject to section 54C, the Coordinator-General's report for the EIS for the project may impose conditions for the undertaking of the project, and state when they take effect.
- (2) A condition imposed in the report is an *imposed condition* for the undertaking of the project.
- (3) If there are imposed conditions for the undertaking of the project, the Coordinator-General may, for any imposed

condition for the undertaking of the project, nominate an entity that is to have jurisdiction for the condition.

- (4) An entity may be nominated for 1 or more of the conditions.
- (5) A nomination under subsection (3) may be in the report or by public notification.
- (6) The public notification may be made at any time.
- (7) The Coordinator-General must give a copy of the report to each nominated entity for an imposed condition for the undertaking of the project.
- (8) Also, if a nomination under subsection (3) is by public notification, the Coordinator-General must give each of the following a copy of the notification—
 - (a) the nominated entity under the nomination;
 - (b) the proponent for the project;
 - (c) the department in which the Environmental Protection Act is administered;
 - (d) the relevant local government for the project.

54C Provision for what conditions may be imposed

The Integrated Planning Act, 3.5.30(1) and 3.5.31(1) apply for imposed conditions for the undertaking of the project as if the conditions were, under that Act, conditions of a development approval being decided by an assessment manager for a development application.

54D Effect of imposed conditions

- (1) This section applies if there are imposed conditions for the undertaking of the project.
- (2) The Integrated Planning Act, section 4.3.3 applies to the undertaking of the project as if—
 - (a) the project were development under that Act; and

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- (b) the imposed conditions were a development approval for the development.
- (3) The Environmental Protection Act, sections 435, 437 to 440 and 493A apply to the undertaking of the project as if the imposed conditions were development conditions under that Act for a development approval for the project.
- (4) To remove any doubt, it is declared that the provisions mentioned in subsections (2) and (3) apply to anyone who undertakes the project, including, for example—
 - (a) the proponent; and
 - (b) any of the following who undertake the project—
 - (i) an agent, contractor or subcontractor or licensee of the proponent;
 - (ii) an agent, contractor or subcontractor or licensee of a person mentioned in subparagraph (i).
- (5) Also, it is declared that—
 - (a) the Integrated Planning Act, section 4.4.3 applies in relation to an offence against section 4.3.3 of that Act; and
 - (b) the Environmental Protection Act, section 493 applies in relation to an offence against section 435, 437 to 440 and 493A of that Act.

54E Imposed conditions override conditions of other approvals

If an imposed condition for the undertaking of the project is inconsistent with a condition of an approval that applies to the undertaking of the project, the imposed condition prevails to the extent of the inconsistency.

54F Provision about enforcement orders under the Integrated Planning Act

- (1) This section applies if—

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- (a) a proceeding is proposed to be started in the Planning and Environment Court under—
 - (i) the Integrated Planning Act, chapter 4, part 3, division 5; or
 - (ii) the Environmental Protection Act, section 505; and
 - (b) the relief or remedy proposed to be sought in the proceeding relates to an offence, or threatened or anticipated offence, against a provision of those Acts as applied under section 54D; and
 - (c) the offence or threatened or anticipated offence relates to the project.
- (2) Despite the provisions mentioned in subsection (1)(a), only the following persons may bring the proceeding—
- (a) the Coordinator-General;
 - (b) the nominated entity for a relevant imposed condition for the undertaking of the project;
 - (c) the relevant local government for the project;
 - (d) the proponent;
 - (e) someone else whose interests are significantly adversely affected by the subject matter of the proceeding.

54G Declaration-making powers

- (1) A proceeding mentioned in the Integrated Planning Act, section 4.1.21 can not be started in relation to the project.
- (2) However, a person mentioned in section 54F(2) may bring a proceeding in the Planning and Environment Court for a declaration about whether there has been substantial compliance with an imposed condition for the undertaking of the project.
- (3) The court has jurisdiction to hear and decide the proceeding.
- (4) The Integrated Planning Act, sections 4.1.22 and 4.1.23 apply to the proceeding as if as it were a proceeding under section 4.1.21 of that Act.

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- (5) The court may, in deciding what orders it is to make in the proceeding, have regard to 1 or more of the following—
- (a) the laws and policies applying when the condition was imposed;
 - (b) the EIS for the project;
 - (c) the Coordinator-General's report for the EIS and any Coordinator-General's change report for the project;
 - (d) the financial implications of—
 - (i) the imposed conditions for the undertaking of the project; or
 - (ii) any proposed orders;
 - (e) the public interest;
 - (f) any environmental management plan required under the condition;
 - (g) any other matter the court considers relevant.

Part 5 Prescribed development

Division 1 Declaration of prescribed development

55 Investigation of developments of State significance

If it appears to the Governor in Council in respect of a proposal for the development of the mineral or energy resources of the State or a proposal for the processing or handling of such resources that—

- (a) such development, processing or handling will be of major economic significance to the State; or

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- (b) the provision of infrastructure for or in relation to such development, processing or handling—
 - (i) would place an excessive financial burden on the resources of the State or on the residents of the State or of any part thereof; or
 - (ii) would significantly affect the priorities as existing at the material time for the provision of services and facilities by the Crown or any local body;

the Governor in Council may, on the recommendation of the Minister, approve that an investigation of the proposal be undertaken by the Coordinator-General with a view to establishing whether the proposed development, processing or handling should be declared to be a prescribed development.

56 Effect of investigation on local bodies

Upon the Coordinator-General notifying a local body that the Coordinator-General has commenced to undertake an investigation of any proposal pursuant to the Governor in Council's approval under section 55—

- (a) the jurisdiction of the local body to deal with any application that has been made or is subsequently made to it and relates to that proposal shall be suspended until it is further notified by the Coordinator-General that its jurisdiction in respect of such application is restored in accordance with this part, the provision of any law to the contrary notwithstanding; and
- (b) where the local body would but for this section be required to decide within a limited time the matter of any application in respect of which its jurisdiction is suspended by paragraph (a), time shall be taken not to have commenced to run against the local body in relation to such application until its jurisdiction in respect of such application is duly restored.

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57 Declaration of prescribed developments

- (1) The Coordinator-General shall submit the findings of an investigation undertaken by the Coordinator-General under this part to the Minister.
- (2) A regulation may declare the proposed development, processing or handling, the subject of the Coordinator-General's investigation, to be a prescribed development.
- (3) If the declaration is revoked, the proposed development, processing or handling to which the declaration related shall cease to be a prescribed development and every application referred to the Coordinator-General under section 67 shall be remitted by the Coordinator-General to the local body from which it was referred to be dealt with by that local body according to law.

58 Notification of decision

- (1) The Coordinator-General shall, in writing, notify that decision to all local bodies and other persons who in the Coordinator-General's opinion are materially concerned with a decision of the Governor in Council under section 57.
- (2) Where—
 - (a) the Governor in Council has refused to declare a proposed development, processing or handling to be a prescribed development; and
 - (b) the jurisdiction of a local body in respect of any application relating to such proposed development, processing or handling is for the time being suspended pursuant to section 56;

the Coordinator-General shall, by notification given to that local body under subsection (1), notify that local body that such jurisdiction is thereby restored to it.

Division 2 Infrastructure coordination plans

59 Preparation of plans

- (1) In respect of each prescribed development the Coordinator-General shall prepare an infrastructure coordination plan.
- (2) A plan required by subsection (1)—
 - (a) shall be prepared in such form and shall contain such matters as the Coordinator-General thinks appropriate; and
 - (b) shall be prepared in consultation with the appropriate officers of Queensland Treasury and with local bodies that in the Coordinator-General's opinion are concerned with the prescribed development and with such other bodies and persons as the Coordinator-General thinks fit; and
 - (c) may identify means for financing and coordinating the provision of infrastructure for the prescribed development; and
 - (d) may include infrastructure requirements that are submitted to the Coordinator-General by a local body or other body or person for inclusion therein or that are included therein by the Coordinator-General of his or her own motion in addition to or in lieu of infrastructure requirements so submitted.

60 Approval of infrastructure coordination plan

- (1) Every plan prepared under section 59 shall, after consideration by the Treasurer, be submitted to the Minister who, if the Minister approves thereof, shall submit the plan to the Governor in Council.
- (2) The Governor in Council may, on the recommendation of the Minister, approve of the plan and thereupon every local body and other person specified in the approved plan shall comply

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with the requirements of the plan (so far as those requirements are the concern of that local body or other person) in respect of the prescribed development to which the plan relates.

- (3) A local body or other person may be specified in an approved plan by name or by reason that it, he or she is one of a class or description of person specified in the plan.

61 Variation of approved plan

- (1) The Coordinator-General may prepare variations of an approved plan but every such variation shall, after consideration by the Treasurer, be submitted to the Minister and to the Governor in Council for the Governor in Council's approval.
- (2) Upon the Governor in Council approving a variation of an approved plan the plan as so varied shall become and be the approved plan in respect of the prescribed development concerned.

62 Effect of approved plan

Where pursuant to any Act an approval is given or a grant is made for the purpose of doing anything that then is or subsequently becomes related to a prescribed development and the person to whom or for whose benefit such approval is given or such grant is made then is or subsequently becomes a person specified in an approved plan relating to that prescribed development such approval or grant shall be deemed to contain and be subject to a condition that such person shall comply in all respects with the requirements of the approved plan (so far as those requirements are the concern of that person) and every instrument conferring title to or rights in land made to give effect to such approval or grant shall be deemed to contain and be subject to the like condition.

63 Local bodies may make and perform agreements etc.

- (1) For the purpose of financing and providing infrastructure for a prescribed development in accordance with an approved plan a local body may, in addition to all other powers had by it, negotiate, enter into and perform such agreements and do all other acts and things as are necessary to enable it to comply with the requirements of that plan.
- (2) The provisions of any other Act that—
 - (a) restrict the power of a local body to negotiate, enter into or perform agreements; or
 - (b) make unlawful the doing by local bodies of acts therein specified in connection with rezoning of land, use of land or the approval, consent or permission to use land or to use or erect any building or other structure;shall not be construed to affect the power conferred on local bodies by subsection (1).
- (3) An agreement negotiated for the purpose referred to in subsection (1) whether by a local body or any other person—
 - (a) shall conform to the requirements of the approved plan for the purposes of which it is negotiated so far as those requirements concern the subject matter of the agreement; and
 - (b) shall not be entered into and, if entered into in breach of this provision, shall be of no effect in law unless it has been approved by the Governor in Council.

64 Agreements to be furnished to Coordinator-General

- (1) Every local body or other person that negotiates an agreement for the purpose of financing and providing infrastructure for a prescribed development in accordance with an approved plan shall furnish a copy of the proposed agreement to the Coordinator-General who shall examine the terms thereof in consultation with the appropriate officers of Treasury and with such local bodies or other persons as the Coordinator-General thinks fit.

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- (2) If pursuant to subsection (1) 2 or more persons are required to furnish a copy of an agreement it shall be sufficient compliance with that subsection if 1 of such persons furnishes the copy as prescribed.
- (3) If in the opinion of the Coordinator-General a proposed agreement furnished to the Coordinator-General under subsection (1) is deficient in any respect the Coordinator-General shall refer the matter to the local body or other person that furnished the proposed agreement to him or her with a view to its alteration in a manner acceptable to the Coordinator-General.
- (4) When, in the opinion of the Coordinator-General, a proposed agreement furnished to the Coordinator-General under subsection (1) is satisfactory the Coordinator-General shall after consideration of the agreement by the Treasurer submit the matter of the agreement to the Minister with the Coordinator-General's recommendation that the proposed agreement should be approved.

65 Approval of agreements

- (1) The Governor in Council may, on the recommendation of the Minister, approve of a proposed agreement referred to in section 63 and furnished to the Coordinator-General under section 64.
- (2) Upon the Governor in Council approving a proposed agreement the Coordinator-General shall cause notification of such approval to be given to the local body or other person that furnished a copy of the proposed agreement to the Coordinator-General.
- (3) Where the Governor in Council has approved an agreement with respect to any subject matter proposed to be entered into for the purposes of a prescribed development any agreement made with respect to the same subject matter, or so as to include the same subject matter, for the purposes of the same development shall be on the same terms and conditions, so far as they relate to that subject matter, as have been so approved.

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- (4) If in any case subsection (3) is not complied with the agreement made shall be of no effect in law.

66 Variation of approved agreement

- (1) If at any time it becomes necessary or desirable to vary an agreement made in accordance with section 65 the local body or other person being party to that agreement may negotiate and enter into a variation agreement but every such variation agreement negotiated shall be submitted and dealt with as prescribed by section 64 and that section and section 65 shall apply in relation to such variation agreement.
- (2) Upon the Governor in Council approving of a proposed variation agreement and such agreement being entered into, the original agreement as so varied shall become and be the approved agreement with respect to the subject matter concerned.

Division 3 Applications relating to prescribed development

67 Referral of applications

- (1) Where a proposed development, processing or handling has been declared to be a prescribed development every application relating to the proposed development, processing or handling that—
- (a) has been made to a local body at the time such declaration is made; or
 - (b) at any time after the making of such declaration is made to a local body;

shall be referred by the local body to the Coordinator-General and the local body shall have no jurisdiction to deal with any such application otherwise than is prescribed by this division unless it is remitted by the Coordinator-General to the local body as hereinafter prescribed.

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- (2) Reference by a local body to the Coordinator-General of an application shall be made—
 - (a) in the case of an application that has been made to the local body at the time the relevant proposed development is declared to be a prescribed development—forthwith upon the local body being notified under section 58 of the declaration; and
 - (b) in the case of an application that is made at any time after the relevant proposed development is declared to be a prescribed development—as soon as is practicable after the application is received by the local body.
- (3) An application required by law to be made to a local body shall be made to that local body notwithstanding that it relates to a prescribed development.

68 Remission of applications

- (1) In respect of every application referred to the Coordinator-General that relates to a prescribed development the Governor in Council shall, on the recommendation of the Minister, determine whether the application referred should remain with the Coordinator-General or be remitted to the local body to which it was made.
- (2) If, pursuant to the determination of the Governor in Council, an application is remitted to the local body to which it was made, it shall be dealt with by that body according to law as if the proposed development to which it relates had not been declared to be a prescribed development but subject to the local body and all other persons concerned complying with the approved plan relating to that development.

69 Applications remaining with Coordinator-General

- (1) If pursuant to a determination of the Governor in Council under section 68(1) an application is to remain with the Coordinator-General, the law under which the application was made to the local body shall be construed in relation to that

application as if a reference therein to the local body were a reference to the Coordinator-General.

- (2) For the purpose of dealing with and determining an application that pursuant to the determination of the Governor in Council is to remain with the Coordinator-General the provisions of law and the constraints that would have affected the dealing with and determination of the application by the local body shall be deemed not to exist.
- (3) The Coordinator-General shall deal with an application that pursuant to the determination of the Governor in Council is to remain with the Coordinator-General in accordance with this Act and the Coordinator-General shall submit the matter of the application, the Coordinator-General's recommendations with respect thereto and any submissions received by the Coordinator-General with respect thereto to the Minister.

70 Advertisement calling for submissions

- (1) In respect of an application relating to a prescribed development that is not remitted to a local body—
 - (a) the Coordinator-General shall by advertisement in some newspaper or newspapers circulating throughout the area or areas of the State for which the development is proposed give public notice—
 - (i) that the application is before the Coordinator-General; and
 - (ii) that a copy of the application is available for public inspection at the address or addresses specified in the advertisement; and
 - (iii) that submissions with respect to the application including objections thereto may be lodged with the Coordinator-General at the address and on or before the date specified in that behalf in the advertisement;

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and shall therein give particulars sufficient in the Coordinator-General's opinion to indicate the general nature of the application; and

- (b) the Coordinator-General shall invite the local body to which the application was made to lodge with the Coordinator-General on or before the date specified in the advertisement its representations with respect to the application together with its comments on the circumstances and matters that have influenced its representations.
- (2) The Coordinator-General shall cause to be kept available for public inspection a copy of an application to which an advertisement under subsection (1) relates at the address or addresses specified for that purpose in the advertisement at all times when that address is or those addresses are open for the conduct of public business.
 - (3) Every submission to the Coordinator-General with respect to an application relating to a prescribed development shall be in writing, shall state the grounds on which it is made and shall particularise the circumstances and matters relied on in support of those grounds.

71 Determination of application

- (1) The Governor in Council, having due regard to the application, any submissions made with respect thereto and any other matters submitted to the Minister by the Coordinator-General, shall, by gazette notice, determine whether the Governor in Council—
 - (a) approves the application unconditionally; or
 - (b) approves the application subject to conditions; or
 - (c) refuses the application.
- (2) If the Governor in Council approves an application subject to conditions the Governor in Council shall at the same time determine and specify what those conditions are.

72 Effect of determination

- (1) The determination by the Governor in Council of an application relating to a prescribed development—
 - (a) shall be final and binding on the applicant, the local body to whom it was made, and all other persons concerned, notwithstanding the provisions of any other law applicable in relation to that application; and
 - (b) where the Governor in Council approves of that application—shall have effect in law according to its tenor to the intent that the use of land approved by the determination may be undertaken and carried out thereon without challenge or hindrance by a local body or any other person on the ground that such use is contrary to any planning scheme or any local law relating to the use or development of land.
- (2) Where an application made to a local body under any law is determined by the Governor in Council under this Act as an application relating to a prescribed development—
 - (a) the local body and any other person charged with keeping the appropriate maps shall cause the effect of the determination to be noted on any planning scheme maps (whether coming into force before or after the making of the determination) for the local government area or part of such area in which is situated the land to which the determination relates; and
 - (b) the local body is hereby authorised to take all steps that appear to it to be necessary to secure compliance with the determination, including taking proceedings before a court of competent jurisdiction; and
 - (c) for the purpose of the local body exercising its authority under paragraph (b), the determination shall be deemed to be a decision of the local body lawfully made in relation to the application pursuant to the law under which the application was made to the local body.

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73 Effect of reference on time limitations

Where an application has been referred to the Coordinator-General under section 67—

- (a) the Governor in Council is not bound by any provision of law that limits the time within which a determination of the application would be required to be made had the application remained with a local body; and
- (b) for the purpose of any provision of law such as is referred to in paragraph (a) time shall be taken not to have commenced to run against the local body concerned in relation to the application until the application has been remitted by the Coordinator-General to the local body to be dealt with by it.

74 Prescribed development to await approval

Where it is determined that an application referred to the Coordinator-General under section 67 should remain with the Coordinator-General, neither the applicant nor any other person shall perform any work or carry out any undertaking as part of the development, processing or handling to which the application relates unless—

- (a) the application has been approved by the Governor in Council and the approval remains in force; and
- (b) if the approval of the application by the Governor in Council is subject to conditions, the work is performed or the undertaking is carried out in accordance in all respects with those conditions.

75 Withdrawal of applications

An application relating to a prescribed development may be withdrawn at any time prior to its determination by the Governor in Council by notice in writing to that effect signed by the applicant and served on the Coordinator-General.

Part 5A Prescribed projects

Division 1 Preliminary

76A Purposes of pt 5A

The purposes of this part are as follows—

- (a) to provide for the identification of projects of significance, particularly economically and socially, to the State or a region;
- (b) to facilitate the undertaking of prescribed projects by providing for a scheme to ensure timely decision-making for prescribed decisions and prescribed processes;
- (c) to provide for conditions to be imposed in relation to the undertaking of prescribed projects, having regard to—
 - (i) the nature of the project; and
 - (ii) the proper management of environmental effects of the project; and
 - (iii) the matters prescribed under section 76N(c)(iii);
- (d) to promote the use of voluntary environmental agreements to encourage the conservation, maintenance, rehabilitation or enhancement of the environment.

76B How the purposes are to be primarily achieved

The purposes of this part are to be primarily achieved by making provision about the following—

- (a) the declaration of particular projects as prescribed projects;
- (b) the giving of notices to decide, progression notices and step in notices by the Coordinator-General;

- (c) the imposition of conditions for a prescribed decision that take account of, for example, the existence of a voluntary environmental agreement relating to the decision.

76C Application of other laws

This part applies despite any other law.

76D Definitions for pt 5A

In this part—

applicant, in relation to a prescribed decision or process, means the person seeking the decision or undertaking of the process under the relevant law for the decision or process.

critical infrastructure project means a project the Minister declares, under section 76E(4), to be a critical infrastructure project.

decision maker—

- (a) for a prescribed decision, means the entity that may make the decision under the relevant law for the decision; and

Example of a decision maker for paragraph (a)—

an assessment manager under the Integrated Planning Act

- (b) for a prescribed process, means the entity responsible for undertaking the process under the relevant law for the process.

Examples of a decision maker for paragraph (b)—

- a concurrence agency
- an entity that may give evidence required to be given under the Integrated Planning Act, section 3.2.1(5)

declaration, for a prescribed project, means the declaration for the project made by the Minister under section 76E.

infrastructure facility see section 125(16).

[s 76D]

notice to decide see section 76J(1).

prescribed decision—

- 1 A ***prescribed decision*** means a decision, in relation to a prescribed project, required to be made under a law of the State, including, for example, a decision about the construction, undertaking, carrying out, establishment, maintenance or operation of a prescribed project.
- 2 However, a ***prescribed decision*** does not include a decision required to be made by the Governor in Council or a Minister.

Examples of a prescribed decision—

- a decision of an assessment manager under the Integrated Planning Act on an application for a development approval
- a decision about the grant of a water licence under the *Water Act 2000*

prescribed process means a process, in relation to a prescribed project, required to be undertaken under a law of the State, including, for example, a process in a stage of IDAS.

Example of a prescribed process—

the giving of an acknowledgement notice under the application stage of IDAS

prescribed project means a project declared under section 76E to be a prescribed project.

progression notice see section 76I(1).

registered owner see the *Land Title Act 1994*, schedule 2.

relevant law, for a prescribed decision or process, means the law, other than this Act, under which the decision may be made or the process undertaken.

step in notice see section 76K(1).

voluntary environmental agreement see section 76S(1).

Division 2 Declaration of prescribed projects, duty to cooperate and requesting further information

76E Declaration of prescribed project

- (1) The Minister may declare any of the following (each a *project*) to be a prescribed project—
 - (a) works a local body, the Coordinator-General or other person is directed to undertake under section 100 or 109;
 - (b) a project in a State development area;
 - (c) an infrastructure facility;
 - (d) a project declared under section 26 to be a significant project;
 - (e) another project the Minister considers—
 - (i) is economically or socially significant to the State or the region in which the project is to be undertaken; or
 - (ii) affects an environmental interest of the State or a region.
- (2) In deciding to declare a project to be a prescribed project, the Minister may have regard to any of the following—
 - (a) the public interest or the general welfare of persons in the region in which the project is to be undertaken;
 - (b) whether a voluntary environmental agreement is likely to be entered into in relation to the undertaking of the project;
 - (c) other matters the Minister considers relevant.
- (3) The declaration must be made by gazette notice.
- (4) If the Minister considers the undertaking of the project is critical or essential for the State for economic, environmental

[s 76EA]

or social reasons, the Minister may, in the gazette notice, declare the project to be a critical infrastructure project.

- (5) This section applies subject to section 76EA.

76EA Process applying to particular declarations

- (1) This section applies if the Minister intends to declare a project with a capital investment value of not more than \$50 million to be a prescribed project.
- (2) Before making the declaration, the Minister—
 - (a) must give each interested person for the project a written notice that—
 - (i) describes the project and the area in which the project is proposed to be undertaken; and
 - (ii) states the grounds on which the Minister considers the project should be declared a prescribed project; and
 - (iii) invites the person to give the Minister a submission about the proposed declaration within the period stated in the notice; and
 - (b) must consider each properly made submission given to the Minister about the proposed declaration.
- (3) The stated period for subsection (2)(a)(iii) must be at least 10 business days after the interested person is given the notice.
- (4) The Minister must, within 10 business days after making a decision about declaring the project to be a prescribed project, give to each interested person who gave the Minister a properly made submission a written notice stating the Minister's reasons for the decision.
- (5) In this section—

capital investment value, for a project, includes all costs necessary to establish and operate infrastructure associated with the project, including, for example, the cost of—

 - (a) fixed or mobile plant and equipment; and

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- (b) designing and constructing buildings or other structures;
and
 - (c) engaging consultants.

interested person, for a project, means each local government for the area in which the project is proposed to be undertaken.

properly made submission means a submission that—

- (a) is in writing and is signed by the local government that made the submission; and
- (b) is received within the stated period for making the submission; and
- (c) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

76F When declaration ends

- (1) A declaration for a prescribed project ends on the later of the following—
 - (a) 2 years after the day the declaration is made;
 - (b) if the declaration states a time for it to end—the stated time.
- (2) Before a declaration ends under subsection (1), the Minister may, by gazette notice, extend the time when the declaration ends if satisfied the extension is necessary or desirable to achieve the purposes of this part.
- (3) However, the extension may not be for a period longer than the initial period of the declaration.

76G Particular entities to cooperate with Coordinator-General

- (1) It is the duty of an entity mentioned in section 13(1) to give to the Coordinator-General the information, documents or assistance the Coordinator-General requires to assess matters relating to a prescribed project.

[s 76H]

- (2) Without limiting subsection (1), the Coordinator-General may require the entity to give to the Coordinator-General—
 - (a) an application for a prescribed decision or a document relating to the application or a prescribed process for the application, including, for example, correspondence between the applicant and the decision maker for the decision or the prescribed process; or
 - (b) information to help the Coordinator-General evaluate a prescribed project; or
 - (c) if a process of public consultation has happened for an aspect of a prescribed project—any submissions received by the entity under the process and any responses given by the entity to the submissions.
- (3) This section does not limit section 13.

76H Coordinator-General may seek further information

- (1) The Coordinator-General may ask a relevant person for a prescribed decision to give the Coordinator-General information the Coordinator-General reasonably requires—
 - (a) to decide whether to give a progression notice, a notice to decide or a step in notice for the decision; or
 - (b) to make an assessment and a decision about the prescribed decision under this part; or
 - (c) to undertake a prescribed process.
- (2) The relevant person must comply with a request under subsection (1).
- (3) In this section—

relevant person, for a prescribed decision, means the applicant for the decision or another entity the Coordinator-General reasonably considers has information that may help the Coordinator-General act on the matters mentioned in subsection (1)(a) or (b).

Division 3 Notices about prescribed projects

Subdivision 1 Progression notice

76I Progression notice

- (1) The Coordinator-General may, by written notice (a *progression notice*) given to the decision maker for a prescribed process, require the decision maker to undertake, within the period stated in the notice, administrative processes required to complete the process.
- (2) The progression notice must—
 - (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed process relates; and
 - (b) identify the process, including, for example, a process under a stage of IDAS; and
 - (c) state the decision maker must—
 - (i) undertake the process within the stated period; and
 - (ii) inform the Coordinator-General of the completion of the process within 5 business days after it is completed.
- (3) On receiving the progression notice, the decision maker must—
 - (a) subject to subsection (5), undertake the prescribed process within the period stated in the notice for that purpose; and
 - (b) inform the Coordinator-General of the completion of the process within 5 business days after it is completed.
- (4) The Coordinator-General may, by written notice given to the decision maker and without the decision maker's agreement, extend the period for undertaking the prescribed process, having regard to the nature of the prescribed project to which the process relates.

[s 76J]

- (5) If the Coordinator-General extends the period for undertaking the prescribed process under subsection (4), the decision maker must undertake the process within the extended period.
- (6) Before giving a progression notice for a prescribed process the Coordinator-General must have regard to the requirements, if any, under the relevant law for the undertaking of the process.
- (7) Subject to this section, the relevant law for the prescribed process continues to apply to the undertaking of the process.

Subdivision 2 Notice to decide

76J Notice to decide

- (1) The Coordinator-General may, by written notice (a *notice to decide*) given to the decision maker for a prescribed decision, require the decision maker to make the decision within the period stated in the notice.
- (2) The stated period must be at least—
 - (a) 20 business days after the notice is given; or
 - (b) if, under the relevant law for the prescribed decision, the decision maker would, other than for this section, be required to make the decision within a period that is less than the period mentioned in paragraph (a)—the lesser period.
- (3) The notice to decide must—
 - (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed decision relates; and
 - (b) identify the decision; and
 - (c) state the decision maker must—
 - (i) make the decision within the stated period; and

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- (ii) inform the Coordinator-General of the decision within 5 business days after it is made.
- (4) On receiving the notice to decide, the decision maker must—
- (a) subject to subsection (6), make the prescribed decision within the period stated in the notice for that purpose; and
- (b) inform the Coordinator-General of the decision within 5 business days after it is made.
- (5) The Coordinator-General may, by written notice given to the decision maker and without the decision maker's agreement, extend the period for making the prescribed decision, having regard to the nature of the prescribed project to which the decision relates.
- (6) If the Coordinator-General extends the period for making the prescribed decision under subsection (5), the decision maker must make the decision within the extended period.
- (7) If the prescribed decision relates to an application for a development approval, the notice to decide may be given to the decision maker only after the decision stage for the application starts.
- (8) Before giving a notice to decide for a prescribed decision, other than a decision mentioned in subsection (7), the Coordinator-General must have regard to the requirements, if any, under the relevant law for the decision about public notification of information or other matters in relation to the decision.
- (9) Subject to this section, the relevant law for the prescribed decision continues to apply to the making of the decision.

Subdivision 3 Step in notice

76K Step in notice

- (1) The Coordinator-General may, with the approval of the Minister, give to the decision maker and applicant for a

[s 76L]

prescribed decision or a prescribed process a written notice (a *step in notice*) advising the decision maker and applicant that the Coordinator-General is to make an assessment and a decision about the prescribed decision or process under this part.

- (2) The step in notice must—
 - (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed decision or process relates; and
 - (b) identify the decision or process; and
 - (c) state the Coordinator-General is the decision maker for the prescribed decision or process from the time the notice is given until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process.

76L When step in notice may be given

- (1) Subject to subsection (3), the Coordinator-General may give a step in notice for a prescribed decision or process only after a progression notice or notice to decide has been given for the process or decision.
- (2) If a progression notice or notice to decide has been given for a prescribed process or decision, the step in notice may be given—
 - (a) at any time after the Coordinator-General is satisfied the decision maker has not complied with the progression notice or notice to decide, but before the decision maker has undertaken the process or made the decision; or
 - (b) if the decision maker has complied with the progression notice or notice to decide—only if the applicant, by written notice given to the Coordinator-General within 10 business days after the applicant is notified of the decision, asks the Coordinator-General to give a step in notice for the decision.

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- (3) A step in notice may be given for a prescribed decision at any time after the decision is made until 10 business days after—
 - (a) if an appeal against the decision has been started under the relevant law for the decision—the start of the appeal; or
 - (b) otherwise—the expiry of the period, under the relevant law for the decision, for starting an appeal against the decision.
 - (4) For subsection (2)(b), the step in notice must be given to the decision maker within a reasonable period after the Coordinator-General receives the request.
 - (5) In this section—

appeal includes review.

76M Providing assistance or recommendations

- (1) The decision maker for the prescribed decision or process must give the Coordinator-General all reasonable assistance or materials the Coordinator-General requires to act under this part, including—
 - (a) all material about the prescribed decision or process the decision maker had before the step in notice was given; and
 - (b) any material received about the prescribed decision or process by the decision maker after the step in notice was given.
- (2) Without limiting subsection (1), the Coordinator-General may, by written notice, require the decision maker to give the Coordinator-General within the reasonable period stated in the notice a written report containing—
 - (a) an assessment of matters, stated in the notice, relevant to the prescribed decision or process; or
 - (b) recommendations about the assessment mentioned in paragraph (a), including, for example, recommendations

[s 76N]

about proposed conditions relevant to the prescribed decision or process.

- (3) Subsection (4) applies if, other than for the giving of the step in notice, under the relevant law for the prescribed decision a local government could have imposed a condition, in relation to the decision, for infrastructure to which the Integrated Planning Act, chapter 5, part 1, applies.
- (4) The local government may, before the Coordinator-General makes a decision under section 76O about the prescribed decision, give the Coordinator-General a written recommendation to impose the condition.

76N Effects of step in notice

If the Coordinator-General gives a step in notice for a prescribed decision or process—

- (a) the Coordinator-General is the decision maker under the relevant law for the prescribed decision or process from the time the step in notice is given until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process; and
- (b) for making the decision, the Coordinator-General has all the powers of the decision maker under the relevant law for the prescribed decision or process; and
- (c) for making the decision, the Coordinator-General must consider the following—
 - (i) the criteria, if any, for making the prescribed decision under the relevant law for the decision or process;
 - (ii) the purposes of this part under section 76A(b), (c)(i) and (ii), and (d);
 - (iii) the matters relevant to the undertaking of a prescribed project and prescribed under a regulation;

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- (iv) another matter relevant to the prescribed decision or process, or the prescribed project to which the decision or process relates, and prescribed under a regulation; and
 - (d) if the prescribed decision or process relates to an application for a development approval—the assessment manager and each concurrence agency for the application is taken to be an advice agency for the application until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process; and
 - (e) if an appeal was made or a review was started in relation to the prescribed decision or process under the relevant law for the decision or process—the appeal or review is of no further effect; and
 - (f) despite paragraph (a), the Coordinator-General’s decision about the prescribed decision or process is taken to be the exercise of a power or performance of a function or duty of the Coordinator-General under this Act.

76O Coordinator-General’s decision

- (1) After making an assessment about the prescribed decision or process, the Coordinator-General may—
 - (a) if the decision had not been made or the process had not been undertaken by the decision maker—
 - (i) make the decision or undertake the process; or
 - (ii) send back the decision or process, with or without conditions, to the decision maker under the relevant law for the decision or process; or
 - (iii) decide aspects of the decision and send back undecided aspects of the decision, with or without conditions, to the decision maker under the relevant law for the decision; or
 - (b) otherwise—

[s 76O]

- (i) confirm or amend the decision; or
 - (ii) cancel the decision and substitute a new decision.
- (2) In acting under subsection (1), the Coordinator-General may, in relation to the prescribed decision, impose conditions the Coordinator-General considers necessary or desirable having regard to—
 - (a) the nature of the prescribed project to which the decision relates; and
 - (b) whether the applicant for the decision has entered into a voluntary environmental agreement for the undertaking of the project; and
 - (c) the matters mentioned in section 76N(c) the Coordinator-General considered for the decision.
- (3) Without limiting subsection (2), the Coordinator-General may impose a condition requiring the applicant to carry out an activity or works that—
 - (a) prevent, control or mitigate detrimental environmental effects that may arise because of the undertaking of the prescribed project; or
 - (b) restore or enhance aspects of the environment that may be affected by the undertaking of the prescribed project to which the decision relates.
- (4) For subsection (3), an activity or works mentioned in the subsection may be required to be carried out on land on which the prescribed project is being undertaken or on other land in another part of the State.
- (4A) If the Coordinator-General receives a recommendation under section 76M(4) to impose a condition in relation to the prescribed decision, the Coordinator-General must impose the condition unless the Minister directs otherwise.
- (4B) The Coordinator-General's decision to impose a condition under subsection (4A) is taken to be a decision for the purposes of the Integrated Planning Act, section 5.1.8(2)(b).

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- (5) For a condition imposed under this section, the Coordinator-General may nominate an entity that is to have jurisdiction, under the relevant law for the prescribed decision, for the condition.
 - (6) An entity may be nominated for 1 or more of the conditions.
 - (7) If the Coordinator-General nominates an entity under subsection (5), the Coordinator-General must give each of the following written notice of the nomination—
 - (a) the entity;
 - (b) the decision maker and the applicant for the prescribed decision.
 - (8) Subject to this part, the relevant law for the prescribed decision or process applies to the making of the Coordinator-General's decision under this section.

76P Effects of decision

- (1) The Coordinator-General's decision under section 76O about the prescribed decision or process, including a decision to impose a condition—
 - (a) is taken to be a decision of the decision maker (the *original decision maker*) under the relevant law for the prescribed decision or process but a person may not appeal against the Coordinator-General's decision under this Act or the relevant law; and
 - (b) takes effect when the applicant for the prescribed decision or process and the original decision maker are given notice, under section 76Q, of the Coordinator-General's decision.
- (2) A condition imposed by the original decision maker in relation to the prescribed decision is of no effect to the extent it is inconsistent with a condition imposed by the Coordinator-General.
- (3) If the original decision maker makes another prescribed decision for the prescribed project to which the step in notice

[s 76Q]

relates, the other prescribed decision must not be inconsistent with the Coordinator-General's decision.

76Q Notice of decision

- (1) The Coordinator-General must give written notice of the Coordinator-General's decision under section 76O about the prescribed decision or process to—
 - (a) the applicant and decision maker for the prescribed decision or process; and
 - (b) each entity nominated by the Coordinator-General to have jurisdiction for a condition in relation to the prescribed decision or process.
- (2) The notice must include—
 - (a) the reasons for the Coordinator-General's decision; and
 - (b) the conditions, if any, imposed under section 76O(2) in relation to the decision.

76R Report about decision

- (1) The Coordinator-General must prepare a report about each step in notice given for a prescribed decision or process.
- (2) The Coordinator-General must include the following in the report—
 - (a) a copy of the step in notice;
 - (b) details of each entity nominated, under section 76O(5), to have jurisdiction for a condition in relation to the prescribed decision or process;
 - (c) a copy of the notice, under section 76Q, of the Coordinator-General's decision;
 - (d) other details about the Coordinator-General's decision required by the Minister.

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- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after notice is given under section 76Q of the Coordinator-General's decision.

Division 4 Voluntary environmental agreements

76S Entering into agreement

- (1) The Coordinator-General may, with the approval of the Minister, enter into an agreement (a *voluntary environmental agreement*) with an applicant for a prescribed decision, or the applicant and another person, about—
- (a) preventing, controlling or mitigating detrimental environmental effects of a prescribed project; or
 - (b) conserving, maintaining, rehabilitating or enhancing aspects of the environment.
- (2) However, if the rights of any of the following persons will be materially affected by the agreement, the Coordinator-General must not enter into it without that person's written consent—
- (a) if the applicant is not the registered owner of land to which the agreement relates—the registered owner of the land;
 - (b) if land to which the agreement relates is subject to a lease or other interest—the lessee or interest holder.

76T Content and duration of agreement

- (1) A voluntary environmental agreement in relation to land may contain terms that are binding on the registered owner of the land and the registered owner's successors in title and other persons who have an interest in the land.
- (2) Without limiting subsection (1), a voluntary environmental agreement may contain terms—

[s 76U]

- (a) requiring the applicant to provide financial or other assistance; or
 - (b) requiring the applicant to provide financial assurance to the State; or
 - (c) requiring the applicant to provide technical advice or carry out stated activities; or
 - (d) prohibiting a stated use of land to which the agreement relates; or
 - (e) restricting the use or management of land mentioned in paragraph (d); or
 - (f) requiring the applicant to permit or restrict access to land mentioned in paragraph (d) by stated persons; or
 - (g) requiring the applicant to refrain from, or not to permit, stated activities; or
 - (h) stating the way in which amounts provided by the applicant under the agreement are to be applied by the State or the applicant; or
 - (i) providing for other matters relating to the matters mentioned in section 76S(1).
- (3) Subsections (1) and (2) do not limit the terms the voluntary environmental agreement may contain.
- (4) A voluntary environmental agreement has effect until it ends under its terms.

76U Recording of particular agreements

- (1) The Coordinator-General must, within 14 days after entering into a recorded voluntary environmental agreement in relation to land, give the registrar written notice of the agreement.
- (2) The notice must include particulars of the land to which the agreement relates.
- (3) The registrar must keep records that—

- (a) show the land to which the agreement relates is the subject of a recorded voluntary environmental agreement; and
 - (b) state the places where particulars of the agreement may be inspected.
- (4) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land will show the existence of the recorded voluntary environmental agreement.
- (5) As soon as practicable after the recorded voluntary environmental agreement ends—
- (a) the Coordinator-General must give the registrar written notice of its ending; and
 - (b) the registrar must remove the particulars of the agreement from the registrar's records.
- (6) While the recorded voluntary environmental agreement has effect and is recorded by the registrar under this section, the agreement is binding on—
- (a) the successors in title to a registered owner who entered into the agreement or consented, under section 76S(2), to the agreement; and
 - (b) persons who have an interest in the land.
- (7) In this section—

recorded voluntary environmental agreement, in relation to land, means a voluntary environmental agreement expressed to be binding on the successors in title to the registered owner of the land and other persons who have an interest in the land.

registrar means the registrar of titles or another person responsible for keeping a register for dealings in land.

[s 76V]

Division 5 Other matters

76V Recovering cost of particular advice or services

- (1) This section applies if, in making an assessment under this part about a prescribed decision or process, the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to make the assessment.
- (2) The Coordinator-General may recover from the applicant for the prescribed decision or process as a debt the reasonable cost of obtaining the advice or services.

76W Application of Judicial Review Act 1991

The *Judicial Review Act 1991*, parts 3 and 5, other than section 41(1), do not apply to—

- (a) a decision of the Minister to declare a project to be—
 - (i) a critical infrastructure project; or
 - (ii) a prescribed project if the project is a critical infrastructure project; or
- (b) a decision of the Coordinator-General to give a progression notice, notice to decide or a step in notice for a critical infrastructure project; or
- (c) the Coordinator-General's decision under section 76O about a prescribed decision or process for a critical infrastructure project; or
- (d) a decision or conduct leading up to or forming part of the process of making a decision mentioned in paragraph (a), (b) or (c).

Editor's note—

The *Judicial Review Act 1991*, part 3 deals with statutory orders of review, and part 5 deals with prerogative orders and injunctions.

Part 6 **Planned development**

Division 1 **State development areas**

77 **Declaration of State development areas, variation and termination thereof**

- (1) A regulation may declare any part of the State or of any area over which the State claims jurisdiction to be a State development area, if the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the State requires it, and may, in like manner—
 - (a) vary a State development area by excluding therefrom any part thereof or by including therein any part of the State or any part of any area over which the State claims jurisdiction; or
 - (b) revoke the declaration.
- (2) Where—
 - (a) the declaration is revoked, the area shall thereupon cease to exist; or
 - (b) any part of a State development area is excluded therefrom it shall cease to be comprised in that area.
- (3) In considering whether the public interest or general welfare of persons requires the declaration of a State development area under subsection (1), the Governor in Council may have regard to—
 - (a) the purposes for taking or acquiring land under section 82(1); and
 - (b) other matters the Governor in Council considers relevant.

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78 Procedure in relation to State development areas

- (1) Every State development area and every variation of an area shall be delineated on a plan held available for inspection by the public at the office of the Coordinator-General and at such other places, in such manner, and at such times as are prescribed.
- (2) If the regulations prescribe a procedure by or pursuant to which the declaration or variation or termination of a State development area is to be made, the declaration, variation or termination, as the case may be, of any area shall be made as prescribed.

79 Development scheme

As soon as practicable after the declaration of a State development area the Coordinator-General shall prepare in relation to that area a development scheme and shall furnish it to the Minister who, if the Minister approves of it, shall submit the same to the Governor in Council for the Governor in Council's approval.

80 Approval, implementation, and variation of development scheme

- (1) If the Governor in Council approves a development scheme submitted to the Governor in Council—
 - (a) notification of the approval shall be published in the gazette and in a newspaper that circulates within the locality of the State development area to which the scheme relates; and
 - (b) a copy of the scheme shall be held available for inspection by the public at the office of the Coordinator-General and elsewhere as the Coordinator-General directs; and
 - (c) the Coordinator-General shall, as soon as practicable, take all steps necessary to secure the implementation of the scheme.

- (2) The Coordinator-General may vary a development scheme approved by the Governor in Council but if the Coordinator-General does so the scheme as so varied shall again be furnished to the Minister and submitted to the Governor in Council as prescribed by section 79.
- (3) If the Governor in Council approves a development scheme as so varied the provisions of subsection (1) shall apply in respect thereof and the scheme as so varied shall be the approved development scheme for the State development area to which it relates in lieu of the development scheme theretofore approved.

81 Abrogation of development scheme

- (1) If a development scheme approved by the Governor in Council proves to be impracticable to implement or undesirable for the State development area to which it relates the Governor in Council may, on the recommendation of the Minister, abrogate the scheme.
- (2) Notification of such abrogation shall be published in the gazette and in a newspaper that circulates within the locality of the State development area to which the abrogated scheme related.

82 Acquisition of land in State development area

- (1) The Coordinator-General may take or otherwise acquire land situated in a State development area for the purpose of—
 - (a) dealing satisfactorily with conditions of natural disaster or hazard, of act of war or civil strife, of bad layout or obsolete development; or
 - (b) providing for the establishment or relocation of population, industry or essential services, the establishment of an infrastructure corridor or for the replacement of open space in the course of the development of any other part of the State.

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- (2) The power conferred by subsection (1) may be exercised notwithstanding that at the time of the taking or acquisition the development of the land taken or acquired is not provided for in an approved development scheme.
- (3) A taking or acquisition of land situated in a State development area or a disposal of such land shall not be called in question in any proceeding—
 - (a) on account of the taking or acquisition of the land from one person and its disposal to another (whether or not development of the land has taken place between the time of its taking or acquisition and the time of its disposal) where the taking or acquisition and the disposal are for the purpose of securing implementation of an approved development scheme that relates to the land; or
 - (b) on account of the fact that the Coordinator-General will not control the development of the land but will secure such development by way of contract with other persons.
- (4) The power to take or acquire land in a State development area for a purpose (the *primary purpose*) includes power to take at any time land in the area either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.
- (5) As well as land granted in fee simple, the Coordinator-General may take or acquire land that is held from the State for an estate or interest less than fee simple for any of the purposes stated in subsection (1).
- (6) The following provisions apply with the stated changes to the taking or acquisition of land in a State development area—
 - (a) section 125(7) applies as if the reference in the subsection to subsection (1) were a reference to section 82(1);
 - (b) section 125(11) and (13) apply as if the reference in the subsections to subsection (10) were a reference to section 82(5);

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- (c) section 125(12) applies as if the reference in the subsection to the land were a reference to land taken under section 82(5);
 - (d) section 125(14) applies as if the reference in the subsection to subsections (7) to (13) were a reference to a taking or acquisition of land under section 82;
 - (e) section 125(15) applies as if the reference in the subsection to this section were a reference to section 82;
 - (f) section 125A applies as if—
 - (i) a reference in the section to section 125 were a reference to section 82; and
 - (ii) the reference in the section to section 125(1) were a reference to section 82(1);
 - (g) section 127 applies as if—
 - (i) the reference in the section to section 125(10) were a reference to section 82(5); and
 - (ii) the reference in the section to section 125(13) were a reference to section 125(13) as it has effect under paragraph (b);
 - (h) section 129 applies as if a reference in the section to section 125 were a reference to section 82.
- (7) Subsection (6) applies subject to section 83.
- (8) In this section—

infrastructure corridor means an area for the establishment of infrastructure relating to roads, public transport or the transportation, movement, transmission or flow of anything, including, for example, goods, material, substances, matter, particles with or without charge, light, energy, information and anything generated or produced.

83 Disposal of land in State development area

- (1) For as long as an approved development scheme subsists in relation to land situated in a State development area—

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- (a) any grant of, demise of, or other dealing with that land made by the Governor in Council shall be subject to such reservations and conditions as are calculated to secure the implementation of that scheme; and
 - (b) it is not competent to the Coordinator-General to sell, lease, or otherwise dispose of such of that land as is held by the Coordinator-General unless the sale, lease, or disposal is authorised by subsection (2).
- (2) The Coordinator-General may sell, lease or otherwise dispose of land held by the Coordinator-General in a development area—
- (a) for the purpose of implementing a development scheme that relates to that development area; and
 - (b) with the approval of the Governor in Council first had and obtained.
- (3) A sale, lease, or other disposal by the Coordinator-General of land held by the Coordinator-General in a development area may be on such terms and conditions as the Coordinator-General thinks fit, including the condition that the purchaser, lessee or donee of the land shall enter into such covenants (whether positive, restrictive or both) as the Coordinator-General requires touching and concerning the use to be made of the land and the right to sell, lease or dispose of it and such terms, conditions and covenants may be varied from time to time in such manner as is agreed by the parties concerned.
- (4) For so long as land is comprised in a development area a person shall not breach or attempt to breach a covenant that binds the land or that binds the person in respect of the use to be made of the land or of the right to sell, lease or dispose of it.

84 Use of land under approved development scheme

- (1) Notwithstanding the provisions of any other Act or law that are directed towards the control of use of land or the provisions of any town plan or other regulatory scheme that is

directed towards that control a use of land situated in a State development area in accordance with a provision of an approved development scheme that relates to the land in question or in accordance with a reservation, condition, or covenant made to secure implementation of an approved development scheme that relates to the land in question is a lawful use of the land, and, should the case require it, it shall be deemed that the material local government or other authority concerned with the control of use of the land has duly permitted such use.

- (2) If an approved development scheme states a particular use for a particular parcel of land in a State development area, a person must not use the land for another use.

Maximum penalty—1665 penalty units.

- (3) An approved development scheme may impose conditions on a particular use for a particular parcel of land in a State development area.

- (4) If an approved development scheme does not state a particular use for a particular parcel of land in a State development area, a person must not use the land for a use unless—

- (a) the use is one contemplated by the approved development scheme; and
- (b) the Coordinator-General gives written approval for the use and the approval has not lapsed under section 84A.

Maximum penalty—1665 penalty units.

- (5) The Coordinator-General may impose conditions on a use approved under subsection (4).

- (6) A condition imposed under subsection (3) or (5) must—

- (a) be relevant to, but not an unreasonable imposition on, the use of the land; or
- (b) be reasonably required for the use of the land.

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- (7) A person using land in a State development area must comply with any condition imposed under subsection (3) or (5) on the use of the land.

Maximum penalty for subsection (7)—1665 penalty units.

84A When approval for the use of land in State development area lapses

- (1) This section applies to an approval under section 84(4)(b) for the use of land in a State development area.
- (2) The approval lapses at the end of the currency period for the approval unless—
- (a) if the use is, under the approved development scheme for the State development area, a material change of use—the change of use happens before the end of the currency period; or
 - (b) otherwise—the use substantially starts before the end of the currency period.
- (3) In this section—
- currency period*, for the approval, means the latest of the following periods to end—
- (a) the period that ends 4 years starting the day the approval took effect;
 - (b) if the approval states or implies a time for the approval to lapse—the period from the day the approval took effect until the stated or implied time;
 - (c) if within the period mentioned in paragraph (a) or (b) the Coordinator-General, by written notice to the person having the benefit of the approval, fixes another period—the other period.

85 Continued existing lawful use not an offence

- (1) This section applies if—

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- (a) immediately before an approved development scheme applies to land, the land is being lawfully used by a person; and
 - (b) after the approved development scheme applies to the land, the person continues the use.
- (2) Section 84(2) and (4) does not apply to the continuation of the use of the land by the person or the person's successors in title to the land.

Division 2 Compensation

Subdivision 1 Preliminary

86 Definition for div 2

In this division—

owner, of an interest in land, means the owner of the interest at the time an approved development scheme first applied to the land.

Subdivision 2 Entitlement to compensation

87 Compensation

- (1) An owner of an interest in land is entitled to be paid reasonable compensation by the Coordinator-General if—
- (a) immediately before an approved development scheme started applying to the land there was an authorised use, alternative lawful use or approved use for the land; and
 - (b) after the approved development scheme started applying to the land, using the land for the authorised use, alternative lawful use or approved use would be an offence under section 84; and

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- (c) the application of the approved development scheme to the land reduces the value of the interest; and
 - (d) the owner has asked the Coordinator-General to approve of the authorised use, alternative lawful use or approved use and the Coordinator-General refuses the request.
- (2) In this section—

alternative lawful use, for land, means a lawful as of right use for which the owner of the land can use the land.

approved use, for land, means a use of the land approved under section 84(4).

authorised use, for land, means a use of the land authorised under a development approval, or an instrument taken to be a development approval under the Integrated Planning Act.

88 Limitations on compensation under s 87

Despite section 87, compensation is not payable—

- (a) for a matter under this division if compensation has already been paid for the matter to a previous owner of the interest in land; or
- (b) for anything done in contravention of this Act.

Subdivision 3 Claims for, and payment of, compensation

89 Time limit for claiming compensation

A claim for compensation under section 87 must be made to the Coordinator-General within 3 years after the day the approved development scheme came into effect.

90 Deciding claims for compensation

- (1) The Coordinator-General must decide the claim for compensation within 60 business days after the day the claim is made.
- (2) In deciding the claim for compensation, the Coordinator-General must—
 - (a) grant all of the claim; or
 - (b) grant part of the claim and reject the rest of the claim; or
 - (c) refuse all of the claim.
- (3) However, the Coordinator-General may decide the claim by giving a notice of intention to resume the interest in the land under section 82.

91 Notification of decision

- (1) The Coordinator-General must, within 10 business days after the day the claim is decided, give the claimant written notice of the decision.
- (2) The notice must state the following—
 - (a) the decision, and the reasons for it;
 - (b) if the decision is to pay compensation, the amount of compensation to be paid;
 - (c) the claimant may appeal against the decision to the Planning and Environment Court;
 - (d) how to appeal.

92 Calculating reasonable compensation involving changes

- (1) For section 87, reasonable compensation is the difference between the market values, appropriately adjusted having regard to the following matters, to the extent they are relevant—

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- (a) any limitations or conditions that may reasonably have applied to the use of the land immediately before the approved development scheme applied to the land;
 - (b) any benefit accruing to the land from the approved development scheme coming into effect, including but not limited to the likelihood of improved amenity in the locality of the land;
 - (c) if the owner owns land adjacent to the interest in land, any benefit accruing to the adjacent land because of—
 - (i) the coming into effect of the approved development scheme; or
 - (ii) the construction of, or improvement to, infrastructure on the adjacent land under the approved development scheme (other than infrastructure funded by the owner) before the claim for compensation was made;
 - (d) the effect of any other changes to the approved development scheme made since the approved development scheme applied to the land;
 - (e) if the Coordinator-General's approval, under section 84(4)(b), to use the land is subject to conditions, the effect of the conditions on the use.
- (2) Despite subsection (1), if land for which compensation is claimed has, since the day the approved development scheme came into effect, become or ceased to be separate from other land, the amount of reasonable compensation must not be increased because the land has become, or ceased to be, separate from other land.
- (3) In this section—
- difference between the market values* means the difference between the market value of the interest in land immediately before the approved development scheme came into effect and the market value of the interest immediately after the approved development scheme came into effect.

93 When compensation is payable

If compensation is payable under section 87, the compensation must be paid within 30 business days after—

- (a) the last day an appeal could be made against the Coordinator-General's decision about the payment of compensation; or
- (b) if an appeal is made, the day the appeal is decided.

94 Payment of compensation to be recorded on title

- (1) The Coordinator-General must give the registrar of titles written notice of the payment of compensation under section 93.
- (2) The notice must be in the form approved by the registrar.
- (3) The registrar must keep the information stated in the notice as information under the *Land Title Act 1994*, section 34.

Subdivision 4 Appeals

95 Appeals against decisions on compensation claims

- (1) A person who is dissatisfied with the Coordinator-General's decision on a claim for compensation may appeal against the decision to the Planning and Environment Court.
- (2) An appeal must be started within 20 business days after the day notice of the decision is given to the person.

96 How appeals are started

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.

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- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

97 Hearing procedures

- (1) The procedure for hearing an appeal is to be in accordance with the rules of court applicable to the appeal or, if the rules make no provision or insufficient provision, in accordance with the judge constituting the court.
- (2) An appeal is by way of rehearing, unaffected by the decision appealed against.

98 Appeal decision

- (1) In deciding an appeal the court may—
- (a) confirm the decision appealed against; or
 - (b) change the decision appealed against; or
 - (c) set aside the decision appealed against and make a decision replacing the decision set aside.
- (2) If the court acts under subsection (1)(b) or (c), the court's decision is taken, for this Act (other than this decision) to be the decision of the Coordinator-General.

Division 3 Undertaking of works by local bodies or approved persons

99 Recommendation of certain works

If the Coordinator-General recommends to the Minister that particular works should be undertaken by any local body or local bodies, or another person, who under an agreement with a local body or local bodies, is permitted or required to undertake the works, the Minister, if the Minister approves of the recommendation, shall submit the same to the Governor in Council for the Governor in Council's approval.

100 Approval of certain works

- (1) A regulation may direct the local body or local bodies concerned or the other person mentioned in section 99 (an *approved person*) to undertake the works recommended.
- (2) If the undertaking of the works concerns more than 1 local body, the regulation may direct—
 - (a) that each local body undertake the part of the works stated in the regulation; or
 - (b) that the stated local body undertake the works and that the costs thereof be apportioned among all the local bodies concerned in the shares stated in the regulation.

101 Time limited for works

By order directed to and served on a local body or approved person that is required to undertake works by a regulation made under section 100 the Minister may specify a time within which the works or any part thereof shall be commenced or completed and may, in like manner, extend the time so specified.

102 Direction to be complied with

A local body or approved person mentioned in a regulation made under section 100 shall comply in every respect with the regulation and—

- (a) where a time is specified in a regulation made under section 100 for the doing of any act—shall do that act within that time; or
- (b) where a time is not so specified—shall take all steps necessary to comply with the regulation as soon as practicable;

and in every case shall therein consult and cooperate with the Coordinator-General and all other local bodies concerned or, for an approved person, the local body or local bodies concerned.

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103 Borrowing of money for works

For the purpose of enabling a local body to undertake works and to borrow money to comply with a regulation made under section 100 and directed to it the undertaking of works as directed by the regulation shall be deemed to be a function of that local body under the Act under which the local body is appointed or constituted and, in the case of a local body that is a local government, shall be deemed to be a function of local government.

104 Procedure on local body's or approved person's default

- (1) If, on the report of the Coordinator-General, the Governor in Council is satisfied that a local body or approved person is in default in complying with a regulation made under section 100 and directed to it the Governor in Council may notify that local body or approved person that upon the expiration of the period therein specified (being not less than 21 days from the date of the notification) the Governor in Council will authorise the Coordinator-General or a project board appointed under this Act to commence and complete or, as the case may require, complete the works or part thereof in respect of which the local body or approved person is in default as agent for that local body or approved person.
- (2) A local body or approved person notified pursuant to subsection (1) may make to the Minister written representations against the Governor in Council effecting the Governor in Council's notified intention.
- (3) The Minister shall submit such representations to the Governor in Council who, if the Governor in Council thinks the case warrants it, may direct that the issue be heard by such person or persons as the Governor in Council appoints.
- (4) The hearing shall be deemed to be an inquiry and shall be conducted as a commission of inquiry under the *Commissions of Inquiry Act 1950* and the person or persons conducting the inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under that Act and in addition, where there is 1 such person, that person or,

where there are more than 1 such person, the person appointed as chairperson of such inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a chairperson of such a commission except such as are by that Act confined to a chairperson who is a judge of the Supreme Court and the provisions of that Act shall apply accordingly.

- (5) The finding on the hearing shall be made to the Minister for reference to the Governor in Council who shall give thereto such weight as the Governor in Council thinks fit in determining the issue in question.
- (6) If, upon the expiration of the period specified in the Governor in Council's notification of intention given to the local body or approved person or upon the receipt by the Governor in Council of the finding on the hearing conducted at the Governor in Council's direction (whichever event is the later to occur), the Governor in Council decides to effect the intention so notified a regulation may authorise the Coordinator-General or a project board appointed under this Act to commence and complete or, as the case may be, complete the works or part thereof in respect of which the local body or approved person is in default as agent for that local body or approved person.

105 Borrowing to facilitate remedy of default

For the purpose of remedying a local body's or approved person's default pursuant to the authority conferred by a regulation made under section 104(6) the Coordinator-General may exercise all or any of the powers conferred on the Coordinator-General by the *Statutory Bodies Financial Arrangements Act 1982* with respect to borrowing money and, where a project board is so authorised to remedy the default, the Coordinator-General may exercise those powers for the use and benefit of the board.

106 Liability for costs of work to remedy default

- (1) All costs, charges and expenses incurred by the Coordinator-General or a project board in or in connection

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with remedying a local body's or approved person's default pursuant to the authority conferred by a regulation made under section 104(6), including all sums borrowed for that purpose together with interest and charges in respect thereof, shall be paid by the local body or approved person in default and may be recovered from the local body or approved person as prescribed.

- (2) All sums payable by a local body or approved person pursuant to subsection (1) are payable to the Treasurer and shall be paid to the Treasurer at such times and in such instalments as the Treasurer requires by order in writing given to the local body or approved person.
- (3) In addition to any other method prescribed for the recovery of such moneys, there may be filed in the registry of the Supreme Court—
 - (a) a certificate by the Treasurer that the amount of costs, charges or expenses claimed in the Treasurer's order given under subsection (2) as payable by the local body or approved person specified in the certificate is duly payable by the local body or approved person and that the local body or approved person has failed to comply with the order in the amount specified in the certificate; and
 - (b) a writing purporting to be a copy of an order of the Treasurer given under subsection (2);

whereupon the certificate so filed shall, in the absence of proof to the contrary, be conclusive evidence of the matters contained therein, and such steps and orders may be taken and made to enforce the order of the Treasurer so filed as if it were a judgment of the Supreme Court, duly entered, given against the local body or approved person to whom the Treasurer's order is directed that orders the local body or approved person to pay to the Treasurer the amount shown in the said certificate as the amount in which the local body or approved person has failed to comply with the Treasurer's order.

107 Power to order postponement of works

- (1) The Coordinator-General may, having regard to the matters specified in section 23, recommend to the Minister that works to be undertaken by any local body or approved person should be postponed.
- (2) If the Minister approves of the recommendation the Minister shall submit the matter to the Governor in Council who may order that the works specified by the Governor in Council shall be postponed for the period specified by the Governor in Council.
- (3) An order made under subsection (2) shall be directed and served on the local body or approved person concerned and shall be given effect to by that local body or approved person and all other persons concerned.

**Division 4 Undertaking of works by
Coordinator-General**

108 Recommendation of particular works

If the Coordinator-General recommends to the Minister that particular works should be undertaken by the Coordinator-General, or by another person on behalf of the Coordinator-General, the Minister, if the Minister approves of the recommendation, shall submit the same to the Governor in Council for the Governor in Council's approval.

109 Direction about particular works

Where a recommendation is submitted to the Governor in Council—

- (a) pursuant to section 108; or
- (b) pursuant to section 99 and the Governor in Council is satisfied that the works therein recommended should be undertaken by the Coordinator-General, or by another person on behalf of the Coordinator-General, instead of

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by the local body or local bodies or approved person recommended;

a regulation may direct the Coordinator-General or other person to undertake the works recommended.

110 Undertaking particular works

- (1) As soon as practicable after a regulation is made under section 109 the Coordinator-General or other person directed under the section shall, subject to and in accordance with the regulation, take and cause to be taken all steps necessary to undertake the works to which the regulation relates.
- (2) Works directed by the regulation to be undertaken by the Coordinator-General, or by another person on behalf of the Coordinator-General shall, for the purposes of the *Land Act 1994* be taken to be community purposes within the meaning of that Act.

111 Delegation of authority of Coordinator-General

- (1) The provisions of section 11 shall be construed subject to this section.
- (2) A power, function, or duty conferred or imposed on the Coordinator-General by a regulation under section 109—
 - (a) shall not be delegated save with the approval of the Governor in Council first had and obtained in lieu of the approval of the Minister; and
 - (b) may be delegated only to a local body or any of the following under the *Public Service Act 2008*—
 - (i) a chief executive;
 - (ii) a senior executive;
 - (iii) a term appointee whose remuneration is equivalent to, or more than, that of a senior executive.
- (3) An entity to whom such a power, function or duty is delegated shall, in its performance thereof, be subject to and comply

with the directions given in relation thereto by the Coordinator-General.

- (4) The Coordinator-General may, at any time, and shall, at the direction of the Governor in Council, revoke a delegation of such a power, function or duty but such revocation shall not affect anything done or anything arising out of anything done under the authority of the delegation prior to its revocation.
- (5) This section does not limit the persons who may, under section 110, undertake works the subject of a regulation under section 109 on behalf of the Coordinator-General.

112 Borrowing of money for works

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

Division 5 Project boards

113 Project boards

- (1) The Governor in Council may, in respect of any works, establish a project board.
- (2) A project board shall be taken to be established upon the publication in the gazette of notification of the appointment of its appointed members.
- (3) A project board shall consist of the Coordinator-General or the Coordinator-General's delegate and 4 or more other members who shall be appointed by the Governor in Council on the recommendation of the Minister, by notification published in the gazette.

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- (4) In making a recommendation to the Governor in Council the Minister shall have regard to the circumstances and requirements of the works in respect of which the board is to be established.
- (5) In the notification of the first appointment of members to a project board the Governor in Council shall specify the works in respect of which the board is established.
- (6) The Governor in Council may at any time, by notification published in the gazette, declare that the project board specified therein shall cease to exist on and from a date specified therein, which date shall not be earlier than the date of publication of the notification in the gazette.
- (7) The board specified in such a notification shall cease to exist on the date so specified and the membership thereof of persons then comprising the board shall terminate on that date.

114 Chairperson and deputy chairperson

- (1) Upon each appointment of the whole number of members of a project board who are appointed by the Governor in Council, the Governor in Council, on the recommendation of the Minister, shall, in the notification of the appointments, nominate a member of the board (whether an appointed member or not) to be chairperson of the board and another member of the board (whether an appointed member or not) to be deputy chairperson during the term of the appointments so notified and the persons so nominated shall be chairperson and deputy chairperson respectively.
- (2) In the absence of the chairperson of a project board or if at any time there is no chairperson the deputy chairperson shall have and may exercise the powers and shall perform the duties of the chairperson of the board.

115 Term of appointment of member of board

- (1) An appointment to membership of a project board shall be for a term of 3 years or, where a less term is specified in the

notification of appointment, for that less term commencing on the date of notification of the member's appointment in the gazette save where the appointment is to a casual vacancy therein.

- (2) A member of a project board shall be eligible for reappointment.

116 Termination of membership of board

- (1) A member of a project board shall be deemed to have vacated his or her office as a member in the following circumstances—
- (a) if, being a member by reason of being the Coordinator-General or the Coordinator-General's delegate, the member ceases to be the Coordinator-General or such delegate;
 - (b) if the member becomes bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
 - (c) if the member is convicted in the State of an indictable offence for which the member is liable to be imprisoned for 12 months at the least or is convicted elsewhere of an offence that, if committed by the member in the State would constitute an indictable offence upon conviction whereof the member would be so liable;
 - (d) if the member dies;
 - (f) if the member resigns his or her office by signed written notice addressed to the Governor in Council and furnished to the Minister.
- (2) A member of a project board may be removed from office as such by the Governor in Council on account of misbehaviour, incapacity, or the member being unfit, in the opinion of the Governor in Council, to hold the office.

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117 Casual vacancies

- (1) When a vacancy occurs in the office of a member of a project board before the expiration of the member's term of appointment the Governor in Council shall, on the recommendation of the Minister, by notification published in the gazette, appoint another person thereto.
- (2) Unless the member sooner vacates or is removed from office as prescribed, a person appointed to fill such a casual vacancy shall hold office until the time when the person's predecessor's term of appointment would have expired.
- (3) When a vacancy occurs in the office of chairperson or deputy chairperson of a project board the person appointed in place of the member who held that office shall not, by reason of the appointment alone, be chairperson or, as the case may be, deputy chairperson, but the Governor in Council, on the recommendation of the Minister, shall, in the notification of appointment, nominate who of the members of the board shall be chairperson or, as the case may require, deputy chairperson for the balance of the term of appointment then current of members of the board and the member so nominated shall be chairperson or, as the case may be, deputy chairperson accordingly.

118 Meetings of boards

- (1) Meetings of a project board shall be held at such times and its meetings and business shall be conducted in accordance with such procedural rules as are prescribed or, in so far as not prescribed, as the board determines from time to time.
- (2) The chairperson of a project board shall preside at each meeting of the board at which the chairperson is present and, in the chairperson's absence, the deputy chairperson, if the deputy chairperson is present, shall preside at the meeting of the board.
- (3) If both the chairperson and the deputy chairperson are absent from a meeting of the board, the members present, if they constitute a quorum, may appoint one of their number to

preside at the meeting and, while so presiding, the appointee shall have and may exercise the powers of the chairperson.

- (4) A quorum of a project board shall be a majority of the number of members of the board for the time being holding office.
- (5) The conduct of any business by a project board shall not be rendered void or otherwise prejudiced or be questioned by reason of any vacancy in the membership of the board or of any defect in the constitution of the board.

119 Disclosure of interests

- (1) A member must disclose to a meeting of a project board any direct or indirect financial interest the member has in a matter being considered, or about to be considered, by the board if the interest could conflict with the proper performance of the member's duties about the consideration of the matter.
- (2) The disclosure must be recorded in the board's minutes and the member must not take part in any vote of the board on the matter but may participate in discussion of the matter.
- (3) Subsection (1) does not apply to an interest which the member may have in common with the public.
- (4) For this section, a member is taken to have an indirect financial interest in a matter if the member—
 - (a) is, personally or through a nominee, a member of a company or other body that has a direct financial interest in the matter; or
 - (b) is in partnership with a person who has a direct financial interest in the matter; or
 - (c) is employed by a person who has a direct financial interest in the matter unless the employer is a statutory body established for a public purpose; or
 - (d) has a spouse, who has a direct financial interest in the matter or an indirect financial interest of the kind described in paragraph (a), (b) or (c); or

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- (e) is lineally related to a person, or has a brother or sister, who has a direct financial interest in the matter or an indirect financial interest of the kind described in paragraph (a), (b) or (c).

120 Fees of members of boards

- (1) Members of a project board shall be paid fees for attendance at meetings of the board at such rates as are prescribed or, in so far as not prescribed, as the Minister approves.
- (2) A member of a project board who for the purposes of attending to the business of the board is required to travel away from the city, town or place where the member usually resides shall be paid travelling and sustenance allowances at such rates as are prescribed or, in so far as not prescribed, as the Minister approves.
- (3) A fee shall not be paid to a member of a project board who is an officer of the public service for attendance at any meeting of a board held during the ordinary office working hours of that officer.

121 Assistance by Coordinator-General to boards

The Coordinator-General may provide for each project board such technical, clerical and secretarial assistance as is required for the proper conduct of its affairs.

122 Status, powers etc. of project board

- (1) A project board shall be a body corporate under the name and style assigned to it by regulation and shall have perpetual succession and a common seal and shall be capable in law of suing and being sued and of doing and suffering all such acts and things as bodies corporate can in law do and suffer.
- (2) All courts, judges, justices and persons acting in a judicial capacity shall take judicial notice of the establishment of a project board and of the common seal of a project board

affixed to any document and, in the absence of proof to the contrary, shall presume that such seal was duly affixed.

- (3) In addition to the powers conferred on every project board by subsection (1) each project board shall have such powers, functions and duties as are conferred on or assigned to that board by the regulation.
- (4) The powers, functions and duties to be conferred on or assigned to a project board shall be such as are, in the opinion of the Governor in Council, directed to enabling or assisting the board to effectively undertake the works in respect of which it is established and shall be in the unfettered discretion of the Governor in Council.
- (5) The regulation—
 - (a) may empower the board to take land for the purposes of the works in respect of which it is established whereupon the board shall be a constructing authority within the meaning of the *Acquisition of Land Act 1967*; and
 - (b) may provide for the regulation of the exercise of any power or the performance of any function or duty conferred on or assigned to the board by the regulation, or for the regulation of the doing of any act incidental to the proper exercise and performance of those powers, functions and duties.
- (6) The regulation must not be taken to be ineffectual or in any way defective notwithstanding—
 - (a) that this Act or any other Act empowers or requires any person, instrumentality or body to do that which the project board is empowered or required by the regulation to do or to do, whether for the benefit of the project board or not, any act that is incidental to or is apt to assist the effective undertaking of the works in respect of which the board is established; or
 - (b) that the works in respect of which the project board is established could be undertaken by any other person, instrumentality or body; or

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- (c) that provision for any matter referred to in the regulation might have been made in some other manner prescribed by this Act.

123 Audit of project board's accounts

- (1) At least once in every calendar year the accounts of each project board shall be audited by the auditor-general.
- (2) The provisions of the *Financial Administration and Audit Act 1977* shall apply in relation to the accounts of each project board and to the audit thereof.

124 Project board is a statutory body

- (1) A project board is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which a project board's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

Division 6 Special powers incidental to planned development

125 Power of Coordinator-General to take land

- (1) In addition to the power to take or otherwise acquire land under section 82, the Coordinator-General may take land for any of the following purposes—
 - (a) works that the Coordinator-General is authorised by the Governor in Council to undertake;
 - (b) works included in a program of works or a development scheme approved under this Act by the Governor in Council that the Coordinator-General is not authorised by the Governor in Council to undertake;

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- (c) works undertaken or to be undertaken by a local body or by a department of the Government;
 - (d) a purpose specified in the schedule to the *Acquisition of Land Act 1967* and approved by the Governor in Council as a purpose for which the Coordinator-General may take land;
 - (e) a purpose of rural or urban development recommended by the Coordinator-General and approved by the Governor in Council;
 - (f) an infrastructure facility that is—
 - (i) of significance, particularly economically or socially, to Australia, Queensland or the region in which the facility is to be constructed; and
 - (ii) approved by the Governor in Council, by gazette notice, as having that significance.
- (2) In considering whether the infrastructure facility mentioned in subsection (1)(f) would be of economic or social significance, the potential for the facility to contribute to community wellbeing and economic growth or employment levels must be taken into account.
- (3) In assessing the potential mentioned in subsection (2), the contribution the infrastructure facility makes to agricultural, industrial, resource or technological development in Australia, Queensland or the region is a relevant consideration.
- (4) Subsection (1)(f) applies even if the taking of land by the Coordinator-General is for conferring rights or interests in the land taken on a person other than the State or a local body.
- (5) If the proposed taking of land by the Coordinator-General is for conferring rights or interests in the land to be taken on a person other than the State or a local body—
- (a) the Coordinator-General must—
 - (i) prepare a statement giving reasons why the infrastructure facility was approved under subsection (1)(f); and

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- (ii) publish a copy of the statement in the gazette; and
 - (b) the Minister must table the statement in the Legislative Assembly within 3 sitting days after the gazette notice approving the infrastructure facility is published.
- (6) If the taking of land by the Coordinator-General is for conferring rights or interests in the land taken on a person other than the State or a local body—
 - (a) the Coordinator-General must prepare a statement giving details of the negotiations by the person with the owners of the land to acquire the land by agreement; and
 - (b) the Minister must table the statement in the Legislative Assembly within 3 sitting days after the taking of the land.
- (7) The process stated in the *Acquisition of Land Act 1967* for the taking of land and the payment of compensation for the land taken applies to all land taken under subsection (1) as if the taking were a taking under that Act by a constructing authority.
- (8) If the taking of land is, under subsection (1)(f), for an infrastructure facility, the notice of intention to resume the land by compulsory acquisition must not be given until at least 2 months after the start of the consultation and negotiation period for the taking fixed under a guideline made under section 174(1)(a).
- (9) The power to take land under this section for a purpose (the *primary purpose*) includes power to take at any time land either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.
- (10) As well as land granted in fee simple, the Coordinator-General may take land that is held from the Crown for an estate or interest less than fee simple for any of the purposes stated in subsection (1).
- (11) Land referred to in subsection (10) shall, if vested in the Coordinator-General, an instrumentality representing the Crown, a local body, or other person by the proclamation

whereby it is taken, be vested in him, her or it for an estate in fee simple.

- (12) The Governor in Council is hereby authorised to grant in fee simple and so vest the land subject to such reservations and conditions as are authorised or required by the *Land Act 1994*.
- (13) The process stated in the *Acquisition of Land Act 1967* for the taking of land and the payment of compensation for the land taken applies to all land taken under subsection (10) as if the taking were a taking of land under that Act by a constructing authority.
- (14) The *Acquisition of Land Act 1967* shall be read with and subject to all such modifications and adaptations as are necessary to give operation and effect to subsections (7) to (13) including by reading a reference therein to the registrar of titles as a reference to the person or authority charged with registering instruments evidencing the title to the estate or interest in the land in question held from the Crown.
- (15) To remove any doubt, it is declared that the taking of land under this section is not a taking of land under the *Acquisition of Land Act 1967*, even though the process to be used for the taking of the land and for the payment of compensation for the land taken is the process stated in that Act.
- (16) In this section—
infrastructure facility includes any of the following—
 - (a) a road, railway, bridge or other transport facility;
 - (b) a jetty or port;
 - (c) an airport, landing strip or spaceport;
 - (d) an electricity generation, transmission or distribution facility;
 - (e) a storage, distribution or gathering or other transmission facility for—
 - (i) oil or gas; or
 - (ii) derivatives of oil or gas;

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- (f) a storage or transportation facility for coal, any other mineral or any mineral concentrate;
- (g) a dam, water storage facility, pipeline, channel or other water management, distribution or reticulation facility;
- (h) a cable, antenna, tower or other communication facility;
- (i) infrastructure for health or educational services.

125A Power of Coordinator-General to take public utility easement

- (1) The Coordinator-General's power under section 125 to take land for a purpose mentioned in section 125(1), includes the power to create, by registration under any of the following that apply to the land, a public utility easement over the land—
 - (a) the *Land Act 1994*, chapter 6, part 4, division 8;
 - (b) the *Land Title Act 1994*, part 6, division 4.
- (2) For the *Land Act 1994*, section 369 and the *Land Title Act 1994*, section 89, the person for whom the land is to be taken under section 125 is taken to be a public utility provider.
- (3) If the document creating the easement states the following have been complied with to the extent they are relevant for the taking of the easement, the easement may be registered under the Acts without the document having been signed by the owner of the land to be burdened by the easement—
 - (a) section 126;
 - (b) any relevant guidelines made under section 174.
- (4) Subsection (3) applies despite the *Land Act 1994*, section 363(1) or the *Land Title Act 1994*, section 83(1).

126 Ensuring reasonable steps are taken to acquire land by agreement

- (1) This section applies if a proposed taking of land under section 125 is for conferring rights or interests in the land on a person other than the State or a local body.
- (2) The Coordinator-General must not take the land unless the Coordinator-General is satisfied—
 - (a) reasonable steps have been taken to take the land by agreement; and
 - (b) the guidelines made for section 174 have been followed; and
 - (c) if the land being taken contains native title—reasonable steps have been taken to enter into an indigenous land use agreement that provides for the non-extinguishment principle to apply to the taking of the land.
- (3) In this section—

indigenous land use agreement means an indigenous land use agreement under the *Native Title Act 1993* (Cwlth), section 24BA, 24CA or 24DA.

non-extinguishment principle has the same meaning as in the *Native Title Act 1993* (Cwlth), section 238.

127 Relationship with native title legislation

For the taking of land under section 125(10) and the payment of compensation for the land taken—

- (a) the process mentioned in section 125(13) must be carried out in a way that is consistent with the *Native Title (Queensland) Act 1993* and the *Native Title Act 1993* (Cwlth); and
- (b) if the *Native Title (Queensland) Act 1993* or the *Native Title Act 1993* (Cwlth) states a process in relation to the taking or payment that is in addition to the process stated in the *Acquisition of Land Act 1967*, the

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additional process also applies to the taking or payment;
and

- (c) the Land Court is the independent body for the *Native Title Act 1993* (Cwlth), section 24MD(6B).

128 Vesting of land taken

- (1) Land taken by the Coordinator-General under this Act shall, according as the proclamation whereby it is taken or a later proclamation provides, vest in the Crown, the Coordinator-General, an instrumentality representing the Crown, a local body, or any other person whomsoever.
- (2) A regulation may divest any land from the Coordinator-General and vest the same in the Crown, an instrumentality representing the Crown, a local body, or other person whomsoever.
- (3) Land taken by the Coordinator-General and vested in the Crown by the proclamation whereby it is taken shall be and remain Crown land until the same is, according to the works or purposes for which it is taken, dealt with as prescribed.

129 Power to use, lease or dispose of land

The Coordinator-General may, to give effect to a purpose mentioned in section 125, do any or all of the following—

- (a) lease, or agree to lease, to any person land taken, or proposed to be taken, under section 125;
- (b) sign an agreement with any person to carry out, own, operate and maintain any works or development on land taken, or proposed to be taken, under section 125;
- (c) sign an agreement with any person in relation to works or development for land taken, or proposed to be taken, under section 125;
- (d) sell land taken, or agree to sell land to be taken, under section 125.

130 Payment of costs of taking land and compensation

- (1) The Governor in Council may, by the proclamation whereby land is taken by the Coordinator-General under this Act or subsequently, by notification published in the gazette, specify by whom the costs of taking the land and the compensation payable therefor are to be paid and thereupon such costs and compensation shall be payable to the Coordinator-General by the person, instrumentality or local body so specified.
- (2) An amount payable on account of such costs or compensation that is not paid to the Coordinator-General within 3 months after it becomes payable or after the amount of such costs or compensation is established (whichever last occurs) may be recovered by the Coordinator-General in a court of competent jurisdiction as a debt due and payable to the Coordinator-General by the person, instrumentality or local body by whom it is payable.

131 Power of Governor in Council to alienate land to Coordinator-General

The power conferred on the Governor in Council by the *Land Act 1994* to grant in fee simple, or demise for a term of years or in perpetuity any Crown land within Queensland includes power to make such a grant or demise to the Coordinator-General of such land pursuant to agreement between the Coordinator-General and the Governor in Council who is hereby there unto authorised.

132 Disposal of land not required for purpose of acquisition

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

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133 Proof of requirement of land

A writing purporting to be a certificate of the Coordinator-General that land therein specified and taken or acquired by the Coordinator-General under this Act was, at the time of its taking or acquisition, required by the Coordinator-General or by any person, instrumentality, or local body for a purpose therein specified shall be admissible in any proceeding as conclusive evidence of the matters contained therein.

134 Power of Coordinator-General to negotiate transfer of works undertaken by the Coordinator-General

- (1) When the Coordinator-General is satisfied that works undertaken by the Coordinator-General as authorised works have been completed in accordance with the plans and specifications therefor, or have attained such a stage as to be available for use for the purpose for which they were undertaken the Coordinator-General may, subject to this section, negotiate and enter into agreement—
 - (a) with any person or instrumentality representing the Crown; or
 - (b) with any local body; or
 - (c) with any entity established under an Act;
that is authorised or required to undertake works of a similar nature for the acquisition, management, operation and control of the authorised works by such person, instrumentality, or local body (the *transferee*).
- (2) The Minister shall submit to the Governor in Council particulars of an agreement negotiated between the Coordinator-General and the transferee and no such agreement shall be entered into or, being entered into, have any effect until its terms are approved by regulation.
- (3) The transferee is hereby authorised to acquire, manage, operate and control the authorised works pursuant to an agreement relating thereto approved by the Governor in Council and the same shall be deemed to be a function of the

transferee under the Act under which he, she or it, as the case may be, is appointed or constituted and, where the transferee is a local government, shall be deemed to be a function of local government.

- (4) From time to time the Coordinator-General may certify what land vested in the Crown is included in or required for authorised works to which an agreement made pursuant to this section relates and for the purpose of securing such land to the transferee the Governor in Council is hereby empowered to grant in fee simple or demise on an appropriate leasehold tenure or set apart and reserve the land to which the certificate relates.
- (5) Every such grant or demise shall be made to the transferee without competition but otherwise shall be subject to the *Land Act 1994*.

135 Undertaking private works

- (1) The Government may enter into an agreement with any person that private works agreed on by them shall be undertaken by the Coordinator-General on such terms and conditions as are provided in the agreement.
- (2) A regulation may authorise the Coordinator-General to undertake works agreed by the Government (whether under subsection (1) or otherwise) to be undertaken by the Coordinator-General and the Coordinator-General is hereby empowered to undertake those works as authorised works subject to and in accordance with the regulation and the material agreement.

136 Powers in respect of land for purposes of works

- (1) In connection with the undertaking by the Coordinator-General of authorised works or in connection with any other works undertaken or to be undertaken pursuant to authority conferred under this Act, the Coordinator-General or his or her delegate, an officer or employee of the

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Coordinator-General, or any person authorised in writing by the Coordinator-General or his or her delegate may—

- (a) enter upon any land; or
 - (b) on any land, make any inspection, investigation, valuation or survey, or take levels; or
 - (c) dig and bore into any land to ascertain the nature of the soil or substrata thereof, and set out thereon the lines of any works; or
 - (d) affix to or set up on any land trigonometrical stations, survey pegs, marks or poles and, from time to time, inspect, alter, remove, reinstate and repair the same; or
 - (e) occupy any land; or
 - (f) on and from any land occupied by or on behalf of the Coordinator-General—
 - (i) construct or place plant, machinery, equipment or goods; or
 - (ii) erect workshops, sheds and other buildings, including buildings for providing housing and other amenities for officers or employees and their dependants; or
 - (iii) make roads, cuttings and excavations; or
 - (iv) manufacture and work materials of all kinds; or
 - (v) deposit clay, earth, gravel, sand, stone, timber, wood, and other material; or
 - (vi) take clay, earth, gravel, sand, stone, timber, wood, and other material; or
 - (vii) demolish, destroy, and remove plant, machinery, equipment, goods, workshops, sheds, buildings or roads.
- (2) The power to enter land conferred by subsection (1) includes power—
- (a) to enter and re-enter the land from time to time; and

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- (b) to remain upon the land for such time as is necessary to achieve the purpose of the entry; and
 - (c) to take such assistants, vehicles, materials, equipment and things as are necessary to achieve the purpose of the entry.
- (3) Where practicable, not less than 7 days notice in writing shall be given to the occupier or, if there is no occupier, the owner of land of the intention to enter thereon.
- (4) Where entry to land is sought to be or has been made pursuant to authority in writing of the Coordinator-General or his or her delegate, the authority shall be produced and shown to the owner or occupier of the land upon his or her demand.

137 Offences of interference and wilful obstruction

A person shall not—

- (a) destroy, mutilate, deface, remove, or alter the position of any trigonometrical station, survey peg, mark, or pole affixed to or set up on land pursuant to this Act save under the authority of the Coordinator-General or his or her delegate; or
- (b) wilfully obstruct, or attempt to obstruct any person in the exercise by the person of a power conferred on the person by section 136.

138 Powers in respect of water for purposes of works

- (1) The Coordinator-General or his or her delegate expressly authorised in that behalf may—
- (a) raise or lower the level of the water in any body of water; or
 - (b) take, impound, divert or use, either permanently or temporarily the water in any body of water;
- to the extent to which the Coordinator-General or, as the case may be, his or her delegate thinks it necessary for the purpose of or in connection with undertaking—

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- (c) authorised works for or connected with the supply of water; or
 - (d) works authorised under this Act to be undertaken for or connected with the supply of water.
- (2) If a moratorium notice has been published under the *Water Act 2000*, the power of the Coordinator-General under subsection (1) does not apply to—
- (a) water to which the notice applies; or
 - (b) if the notice is amended—water to which the amended notice applies.
- (3) If a water resource plan has been approved, or is taken to have been approved, under the *Water Act 2000*, the power of the Coordinator-General under subsection (1) does not apply to—
- (a) water to be supplied to water entitlement holders, or persons authorised to take water under the *Water Act 2000*, section 20, in the plan area at the time the power is exercised; and
 - (b) water required to meet environmental flow objectives and water allocation security objectives under the plan.
- (3A) The power of the Coordinator-General under subsection (1) does not apply to a wild river area.
- (4) However, if the Coordinator-General acts under subsection (1)—
- (a) the Coordinator-General must consider the economic and social benefits of the proposed works and any industry to be supplied with the water, and any 1 or more of the following—
 - (i) the need for sustainable management and efficient use of water under the *Water Act 2000*, section 10;
 - (ii) the principles of ecologically sustainable development under the *Water Act 2000*, section 11;
 - (iii) relevant water planning information;

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- (iv) the needs of water entitlement holders under the *Water Act 2000*;
 - (v) the volume of water to be supplied under subsection (1); and
 - (b) the Coordinator-General must—
 - (i) prepare a statement giving reasons why the power is exercised; and
 - (ii) publish a copy of the statement in the gazette; and
 - (c) the Minister must table the statement in the Legislative Assembly within 3 sitting days after the notice is published in the gazette.

139 Compensation for exercise of power under ss 136 and 138

- (1) A person who claims to have suffered damage resulting from an exercise of power under section 136 or 138 may apply for and be awarded compensation as provided for in this section.
- (2) Every application for compensation on account of such damage shall be made and dealt with in the manner prescribed by the *Acquisition of Land Act 1967* in relation to applications for compensation made under that Act and the entitlement to such compensation (including right of appeal in respect thereof) and the assessment of such compensation shall be as prescribed by that Act in so far as the provisions of that Act are appropriate to a claim for compensation made on account of such damage and subject always to the provisions of this section.
- (3) Compensation that may be payable on a claim made on account of damage resulting from an exercise of power under section 136 may include compensation in respect of—
 - (a) damage of a temporary nature as well as of a permanent nature; or
 - (b) the taking of clay, earth, gravel, sand, timber, wood, and other material;

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

- (4) The assessment of compensation that may be payable on a claim made on account of damage resulting from an exercise of power under section 138 is subject to the following conditions—
- (a) compensation is not payable for the taking, impounding, diversion or use, permanently or temporarily, of water from any body of water;
 - (b) compensation is not payable on account of a diminution or deterioration in a supply of water to any person unless it—
 - (i) deprives the person of a supply of water theretofore enjoyed by the person lawfully; and
 - (ii) is the direct result of the works for or in connection with which the power was exercised; and
 - (iii) will be permanent in its duration;
 - (c) where the damage appears to be of a permanent or recurrent nature—an amount of compensation may be agreed on or awarded on account of damage sustained up to the date of the application for compensation and to be sustained thereafter in full satisfaction of the claim and in such case no further compensation shall be payable on account of future such damage.
- (5) Where at the time when an application is made for compensation on account of damage resulting from an exercise of power under section 136 or 89 the works for or in connection with which the power is exercised are not completed a member of the Land Court may, on the application of the Coordinator-General, order that the matter of the application for compensation be deferred until the works are completed or for a time limited in the order and thereupon no further proceeding shall be had on the application for compensation (save an application hereinafter in this subsection referred to) until the completion of the

works or, as the case may be, the expiration of the time so limited unless a member of the Land Court on the application of the applicant for compensation otherwise orders.

140 Powers in respect of particular works on foreshore and under waters

- (1) A regulation may authorise the Coordinator-General to undertake works in, on, over, through or across any foreshore or land lying under Queensland waters and may—
 - (a) authorise the Coordinator-General to take from the foreshore or from such land sand, stone, gravel and other material and to use the same for the works specified in the regulation; and
 - (b) direct that the taking and use of the sand, stone, gravel and other material for the works is exempt development under the Integrated Planning Act.
- (2) The Coordinator-General may exercise an authority conferred on the Coordinator-General pursuant to subsection (1) in accordance with the regulation and subject to this section.
- (3) For the *Coastal Protection and Management Act 1995*, section 101, an authorisation under this section to take sand, stone, gravel and other material is taken to be an allocation notice under the Act for the removal of the sand, stone, gravel and other material.

Division 7 Investigating potential infrastructure facility

141 Purpose of div 7

The purpose of this division is—

- (a) to allow persons authorised by the Coordinator-General to enter land to investigate the land's potential and suitability for the development of an infrastructure

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facility mentioned in section 125(1)(f) before the powers under the section are exercised; and

- (b) to safeguard the interests of the owner of the land.

142 Definitions for div 7

In this division—

associated person, of an investigator, means any of the following—

- (a) if the investigator is a corporation—the corporation's chief executive, secretary or directors;
- (b) the investigator's employees or partners who are individuals;
- (c) a person who is an agent of, or contractor for, the investigator, and engaged in writing for the investigator's authority;
- (d) employees of an agent or contractor mentioned in paragraph (c);
- (e) if a person mentioned in paragraph (c) is a corporation—the corporation's chief executive, secretary, directors or employees.

investigator means a person who holds an investigator's authority.

investigator's authority means an investigator's authority granted under this division.

owner, of land, includes a person who to the knowledge of the Coordinator-General is an occupier of the land.

143 How to apply for investigator's authority

- (1) This section applies if the person proposing the infrastructure facility can not successfully negotiate entry to the land with the owner.

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- (2) The person may apply to the Coordinator-General for an investigator's authority for the land.
 - (3) The applicant must give the Coordinator-General the following in support of the application—
 - (a) details of the proposed facility, including the land on which the facility is proposed to be located;
 - (b) the likely demand for the services associated with the proposed facility;
 - (c) advice as to how the proposed facility would satisfy an identified need;
 - (d) details of the applicant's financial and technical capacity to implement the proposed facility;
 - (e) details of the steps the applicant has taken, or tried to take, to satisfy its obligations under subsection (1);
 - (f) any other information the Coordinator-General considers is necessary to assess the application.
 - (4) The application must be in writing and state the following information—
 - (a) the land intended to be entered under the authority;
 - (b) the purpose for which the authority is sought;
 - (c) details of the nature of the activities proposed to be conducted on the land;
 - (d) the period for which the authority is sought.
 - (5) The Coordinator-General must advise the owner—
 - (a) that an application for an authority has been made for the land; and
 - (b) the powers a person granted an authority may exercise under this division.

144 Additional information about application

- (1) Before deciding the application, the Coordinator-General—

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- (a) must consult with the owner about the proposed entry to the land; and
 - (b) may require the applicant to give additional information about the proposed entry.
- (2) The Coordinator-General may reject the application if the applicant fails, without reasonable excuse, to give the additional information within a stated reasonable time of not less than 28 days.

145 Granting authority

- (1) The Coordinator-General may—
- (a) grant an investigator's authority, with or without conditions; or
 - (b) refuse to grant the authority.
- (2) If the Coordinator-General refuses to grant the authority, the Coordinator-General must give the applicant written reasons for the refusal.
- (3) Without limiting subsection (1)(a), a condition may require the lodging of a bond or security deposit with the Coordinator-General.
- (4) The authority must be only for the part of the land the Coordinator-General is satisfied is reasonably necessary for conducting the investigations.

146 Investigator's authority

- (1) The investigator's authority must be in writing stating the following—
- (a) the land to which it applies;
 - (b) the purpose for which it is granted;
 - (c) when it expires;
 - (d) any conditions imposed on the authority.

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- (2) The authority authorises the investigator and associated persons—
- (a) to enter and re-enter land the subject of the authority for investigating the land's potential and suitability for the construction of the infrastructure facility; and
 - (b) to the extent reasonably necessary or convenient for the purpose—
 - (i) to do anything on the land; or
 - (ii) to bring anything onto the land; or
 - (iii) to temporarily leave machinery, equipment or other items on the land.

Examples of things authorised by the authority—

- 1 to conduct surveys, investigate and take samples
 - 2 to clear vegetation, or otherwise disturb the land, to the extent reasonably necessary
 - 3 to construct temporary access tracks using the land or using materials brought onto the land
- (3) It is declared that—
- (a) the grant of the authority is not an indication of a commitment or approval by the State, the Coordinator-General or any other person to any proposal, and in particular, does not commit the State to acquiring any land for construction of the infrastructure facility; and
 - (b) a person is not an employee or agent of the State merely because the person is an investigator.
- (4) The investigator or associated person must comply with each condition of the authority, unless the investigator or associated person has a reasonable excuse.

Maximum penalty for subsection (4)—200 penalty units.

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147 What investigator must do before land is entered for the first time

- (1) Before land is entered for the first time under the investigator's authority, the investigator must give a written notice to the owner of the land together with a copy of the authority.
- (2) The notice must state the following—
 - (a) the investigator has been granted the investigator's authority;
 - (b) the things the investigator and associated persons of the investigator are authorised to do under the authority;
 - (c) a general outline of the things intended to be done on the land, including the construction of any temporary access track;
 - (d) the approximate period during which the land is to be entered under the authority;
 - (e) the rights of the owner under section 151 or 152 for the rectification of, or compensation for, any loss or damage suffered during the investigation;
 - (f) the grant of the authority is not an indication of a commitment or approval by the State, the Coordinator-General or any other person in relation to any proposal, and in particular, does not commit the State to acquiring any land for construction of the infrastructure facility.
- (3) The investigator or associated person may enter onto land only if—
 - (a) the owner of the land gives written consent to the entry;
or
 - (b) at least 7 days have passed since the notice was given.

148 Investigator to issue associated person with identification

- (1) Before the investigator allows an associated person to act under the investigator's authority, the investigator must issue the associated person with identification.

Maximum penalty—10 penalty units.

- (2) The identification must—
- (a) state the names of the investigator and the person to whom the identification is issued; and
 - (b) indicate that, for this Act, the person is associated with the holder of the authority; and
 - (c) state the capacity in which the associated person is an associated person; and
 - (d) be signed by or for the investigator; and
 - (e) be signed by or for the associated person; and
 - (f) state its expiry date.
- (3) A person who stops being an associated person of an investigator must return the person's identification issued under subsection (1) to the investigator as soon as practicable, but within 21 days, after the person stops being an associated person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

- (4) Subsections (5) and (6) apply if a person who claims to be, or appears to be, the owner of the land asks an individual who has entered, is entering or is about to enter land under the authority—
- (a) for identification; or
 - (b) about the person's authority to enter the land.
- (5) If the request is made of an investigator, the investigator must immediately state the investigator's name and show the person a copy of the authority.

Maximum penalty—10 penalty units.

[s 149]

- (6) If the request is made of an associated person of the investigator, the associated person must immediately state his or her name and show the other person the identification issued to the associated person under subsection (1).

Maximum penalty for subsection (6)—10 penalty units.

149 Pretending to be an investigator etc.

A person must not pretend—

- (a) to be an investigator; or
- (b) to be an associated person of an investigator.

Maximum penalty—80 penalty units.

150 Investigator to take care in acting under authority

The investigator and all associated persons of the investigator—

- (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the land's owner; and
- (b) may do anything necessary or desirable to minimise the damage or inconvenience.

151 Rectification of damage by investigator

- (1) The owner of the land may, by written notice given to the investigator, require the investigator, within a reasonable time after the investigator has finished investigating the land under the authority, to rectify loss or damage suffered by the owner arising out of—
- (a) the entry onto the land; or
 - (b) any use made of the land; or
 - (c) anything brought onto the land; or
 - (d) anything done or left on the land in connection with the investigator's authority.

-
- (2) If the loss or damage mentioned in subsection (1) is not rectified or can not be rectified, the owner of the land may, by written notice given to the investigator, claim compensation for the loss or damage not rectified.
 - (3) A notice under subsection (1) or (2) must be given—
 - (a) within 1 year after the loss or damage happened; or
 - (b) at a later time allowed by the Land Court.
 - (4) The claim for compensation may be made—
 - (a) whether or not the act or omission giving rise to the claim was authorised under the authority; and
 - (b) whether or not the investigator took steps to prevent the loss or damage; and
 - (c) even though the loss or damage was caused, or contributed to, by an associated person.

152 Compensation payable by investigator

- (1) The investigator must compensate the owner of the land for the loss or damage the owner has suffered and that has not been rectified.
- (2) The amount of compensation is—
 - (a) the amount agreed between the parties; or
 - (b) if the parties can not agree on the amount within a reasonable time—the amount decided by the Land Court.

153 Release of bond or security deposit

- (1) This section applies if, under a condition of an investigator's authority, a bond or security deposit is required to be lodged with the Coordinator-General.
- (2) The Coordinator-General may keep the bond or security deposit until—

[s 153A]

- (a) if the owner of the land does not give a notice of damage within the prescribed time—1 year after the investigator's authority expires; or
 - (b) if the owner of the land gives a notice of damage within the prescribed time and the Coordinator-General is satisfied the damage or loss has been repaired or rectified or compensation for the damage or loss has been paid to the owner—the damage or loss has been repaired or rectified or the compensation has been paid.
- (3) If the owner of the land gives a notice of damage within the prescribed time and the Coordinator-General is satisfied the damage or loss has not been repaired or rectified or compensation for the damage or loss has not been paid to the owner the Coordinator-General—
- (a) may use the bond or security deposit to repair or rectify the damage or loss or pay compensation to the owner; and
 - (b) must pay the balance, if any, to the investigator.
- (4) In this section—

notice of damage means a notice under section 151.

prescribed time, for giving a notice of damage arising out of the entry onto land by an investigator, means 1 year after the investigator was last on the land.

Division 8 Easements for critical infrastructure projects

153A Definitions for div 8

In this division—

appropriate register means the appropriate register under the *Land Act 1994* or the *Land Title Act 1994*.

critical infrastructure easement means an easement registered under section 153B.

easement holder, in relation to a critical infrastructure easement, means—

- (a) the Coordinator-General; or
- (b) if the easement is transferred to another entity—the entity to which it is transferred.

registrar means the registrar of titles or another person responsible for keeping a register for dealings in land.

relevant public utility easement means an easement registered as a public utility easement under the *Land Act 1994*, chapter 6, part 4, division 8, or the *Land Title Act 1994*, part 6, division 4, or that would have been registered as a public utility easement under those provisions if it had been registered after the provisions commenced.

153B Registration of critical infrastructure easement

- (1) This section applies to land that—
 - (a) is the subject of a critical infrastructure project; and
 - (b) is burdened by a relevant public utility easement.
- (2) On receiving an instrument of easement for the land, the registrar must record the particulars of the easement in the appropriate register if—
 - (a) the instrument—
 - (i) relates only to the land affected by the relevant public utility easement; and
 - (ii) is signed by the Minister; and
 - (b) the easement is in favour of the Coordinator-General.
- (3) Despite the *Land Act 1994*, section 363 or the *Land Title Act 1994*, section 83, the easement may be registered under the Acts—
 - (a) without the instrument being signed by a person other than the Minister; and

[s 153C]

- (b) for an easement under the *Land Act 1994*—without the approval of the Minister under that Act.
- (4) The easement is taken to be a public utility easement under the *Land Act 1994*, chapter 6, part 4, division 8, or the *Land Title Act 1994*, part 6, division 4.

153C Terms of easement

A critical infrastructure easement may include the following terms—

- (a) the easement holder, or a person employed, engaged or authorised in writing by the holder, may construct, maintain, repair, renew, replace or operate infrastructure in or on land burdened by the easement;
- (b) the easement holder is the owner of the infrastructure mentioned in paragraph (a);
- (c) other terms the Minister considers necessary to facilitate the construction, maintenance, repair, renewal, replacement or operation of the infrastructure.

153D Effect of registration of easement

- (1) The registration of a critical infrastructure easement over land under section 153B does not extinguish a relevant public utility easement.
- (2) However, the grantee of the relevant public utility easement can not, without the consent of the easement holder for the critical infrastructure easement, exercise any rights in relation to the relevant public utility easement to the extent the exercise of the rights would interfere with the exercise of rights under the critical infrastructure easement.

153E Transfer of easement

- (1) With the Minister's written approval, a critical infrastructure easement may be transferred to—
 - (a) another public utility provider; or

-
- (b) a person approved by the Minister as suitable to provide a public utility service in relation to the critical infrastructure easement.
 - (2) On receiving an instrument evidencing the transfer, the registrar must record the transfer in the appropriate register.
 - (3) The transfer may be recorded in the appropriate register—
 - (a) without the approval of a person other than the Minister; and
 - (b) if the appropriate register is a register under the *Land Act 1994*—without the approval of the Minister under that Act.
 - (4) A person approved by the Minister under subsection (1)(b) is taken to be a public utility provider for the purposes of the critical infrastructure easement.
 - (5) In this section—

public utility provider means a public utility provider under—

 - (a) the *Land Act 1994*, chapter 6, part 4, division 8; or
 - (b) the *Land Title Act 1994*, part 6, division 4.

153F Amendment of easement

- (1) A critical infrastructure easement may, with the Minister's written approval, be amended under, as appropriate—
 - (a) the *Land Act*, section 370; or
 - (b) the *Land Title Act*, section 91.
- (2) However, the amendment may be registered—
 - (a) without the instrument of amendment being signed by a person other than the easement holder; and
 - (b) for an amendment under the *Land Act 1994*—without the approval of the Minister under that Act.

[s 153G]

153G Minister to give notice of registration or amendment

- (1) The Minister must, as soon as practicable after a critical infrastructure easement is registered or amended under this division, give written notice of the registration or amendment to each person who has an interest in land the subject of the easement.
- (2) The notice must include all of the following—
 - (a) for registration of an easement—particulars of the easement;
 - (b) for amendment of an easement—particulars of the amendment;
 - (c) information about the person's right to claim compensation under section 153I, and the process for claiming the compensation.

153H Application of particular provisions

To remove any doubt, it is declared that sections 153C to 153G continue to apply to a critical infrastructure easement even if the land the subject of the easement is no longer the subject of a critical infrastructure project.

153I Compensation

- (1) Subsection (2) applies to a person who has an interest in land burdened by a critical infrastructure easement—
 - (a) when it is registered under section 153B; or
 - (b) when its terms are amended under section 153F.
- (2) The person has a right to claim compensation under the *Acquisition of Land Act 1967* in relation to the extent to which the person's interest is affected by the registration or amendment.
- (3) For claiming the compensation, the process stated in the *Acquisition of Land Act 1967* for the payment of compensation for land taken under that Act applies with any

necessary changes as if the registration or amendment were a taking of land under that Act by the State.

- (4) Other than as stated in this section, a person has no right to compensation for the registration or amendment of a critical infrastructure easement under this division.

153J Delegation of Minister's functions under div 8

- (1) The Minister may delegate the Minister's functions under this division to an appropriately qualified public service officer or an appropriately qualified person employed under this Act.
- (2) In this section—

appropriately qualified, in relation to a delegated function, includes having the qualifications, experience or standing to perform the function.

Example of standing—

a person's classification level in the public service

functions includes powers.

Part 7 Finance provisions

154 Expenses of works

- (1) When works are undertaken by the Coordinator-General or a project board—
 - (a) for the benefit of a local body or a department of the Government;
 - (b) for the benefit of a particular person;
 - (c) upon the default of or on behalf of a local body;

a regulation may direct the local body or department or person concerned to pay to the Treasurer, at such time or times and on such terms and conditions as specified in the regulation the

[s 155]

whole or a proportion, specified in the regulation, of the costs and expenses incurred by or on behalf of the Coordinator-General or project board in connection with the works.

- (2) Where there is more than 1 local body or person concerned the regulation may apportion the costs and expenses between or among them and may require payment of each local body or person accordingly.
- (3) Moneys required pursuant to this section to be paid and unpaid as required may be recovered by the Treasurer—
 - (a) by action in any court of competent jurisdiction as a debt due and payable to the Treasurer; or
 - (b) under the *Statutory Bodies Financial Arrangements Act 1982*, sections 24 to 28, as if a reference in the sections to—
 - (i) the recovery amounts were a reference to moneys to be paid and unpaid under this section; and
 - (ii) a statutory body were a reference to a local body.

155 Expenditure generally on work by Coordinator-General

Where for work of a certain nature, an Act provides for expenditure from any fund or Parliament has appropriated money, moneys may be expended in respect of work of that nature undertaken by the Coordinator-General or the Coordinator-General's delegate.

156 Subsidies or Treasury loans for works

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

157 The Coordinator-General is a statutory body

- (1) The Coordinator-General is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the Coordinator-General's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

Part 7A Enforcement and general offences

Division 1 Enforcement notices

Subdivision 1 Giving enforcement notice

157A What is an *enforceable condition*

- (1) An *enforceable condition* is any of the following—
 - (a) a condition mentioned in section 35(4)(b) or (d), 35I(2), 62 or 71;
 - (b) a requirement recommended under section 35I(2)(b) or 43 that has been included in a designation as community infrastructure under the Integrated Planning Act, section 2.6.8;
 - (c) a stated condition recommended under section 35I(2)(b) or section 52 that has become part of an approval under another Act mentioned in part 4, division 7 (a *relevant approval*);
 - (d) a condition imposed under section 76O or 84.

[s 157B]

- (2) To remove any doubt, it is declared that a condition or requirement mentioned in subsection (1) continues to be an enforceable condition even though—
 - (a) it has become part of a relevant approval; or
 - (b) it has been amended under this Act; or
 - (c) the enforceable condition, as a part of a relevant approval, has been amended under another Act.

157B Power to give enforcement notice

- (1) This section applies if the Coordinator-General reasonably believes a person has contravened, or is contravening, an enforceable condition.
- (2) The Coordinator-General may give the person a written notice (an *enforcement notice*) requiring the person to—
 - (a) comply with the condition; or
 - (b) take stated steps the Coordinator-General considers are reasonably necessary to ensure compliance with the condition.
- (3) Without limiting subsection (2)(b), an enforcement notice may—
 - (a) require the recipient to not start, or stop, a stated activity indefinitely, for a stated period or until further notice from the Coordinator-General; or
 - (b) require the recipient to carry out a stated activity only during stated times or subject to stated conditions; or
 - (c) require the recipient to take stated action within a stated period.
- (4) An enforcement notice may also require the recipient to notify the Coordinator-General when the recipient has complied with the notice.
- (5) To remove any doubt, it is declared that this section does not—

-
- (a) affect a power under another Act to enforce a condition;
or
 - (b) prevent the bringing of a proceeding for an offence against another Act.

Note—

See, however, the *Acts Interpretation Act 1954*, section 45 (Offence punishable only once).

157C Requirements for enforcement notice

- (1) An enforcement notice must—
 - (a) identity the enforceable condition the subject of the notice; and
 - (b) state each of the following—
 - (i) the recipient's name;
 - (ii) the land or activity the subject of the notice;
 - (iii) that the Coordinator-General believes the recipient has contravened, or is contravening, the condition;
 - (iv) the reasons for the belief;
 - (v) the requirements imposed under the notice; and
 - (c) include, or be accompanied by, an information notice about the decision to give the notice.
- (2) In this section—

information notice means a written notice stating—

 - (a) the appeal right against the decision, under section 157D; and
 - (b) that an appeal must be started within 20 business days after the day the notice is given; and
 - (c) how to appeal; and
 - (d) that, under section 157E, the recipient may apply for a stay of the decision.

[s 157D]

Subdivision 2 Appeals

157D Right of appeal

- (1) The recipient of an enforcement notice may appeal to the Planning and Environment Court against the decision to give the notice.
- (2) The appeal must be started within 20 business days after the day the notice is given.

Note—

For how to start the appeal and procedures for the appeal, see the Integrated Planning Act, chapter 4, part 1, divisions 10 to 12.

157E Stay only by application

- (1) An appeal under section 157D affects the decision the subject of the appeal and the operation of the relevant enforcement notice only if the decision is stayed.
- (2) The Planning and Environment Court may grant a stay of the decision to secure the effectiveness of the appeal.
- (3) A stay—
 - (a) may be given on the conditions the court considers appropriate; and
 - (b) operates for the period fixed by the court; and
 - (c) may be amended or cancelled by the court.
- (4) The period of a stay under this section must not extend past the time when the court decides the appeal.

Subdivision 3 Effects of enforcement notice

157F Offence to contravene enforcement notice

The recipient of an enforcement notice must comply with the notice.

Maximum penalty—1665 penalty units.

157G Notice of disposal by recipient of any current enforcement notice

(1) This section applies if the recipient of a current enforcement notice proposes to dispose of the land or business to which the notice relates to someone else (the *prospective buyer*).

(2) Before agreeing to dispose of the land or business, the recipient must give written notice to the prospective buyer of the existence of the enforcement notice.

Maximum penalty—50 penalty units.

(3) Within 10 business days after agreeing to dispose of the land or business, the recipient must give written notice of the disposal to the Coordinator-General.

Maximum penalty—50 penalty units.

(4) In this section—

current enforcement notice means an enforcement notice that has not been complied with and has not been withdrawn.

157H Additional consequence of not giving notice of disposal

(1) This section applies if section 157G applies and the recipient of the enforcement notice does not comply with section 157G(2).

(2) The prospective buyer may end the agreement to dispose of the land or business by written notice given to the recipient before the completion of the agreement or possession under the agreement, whichever is the earlier.

[s 157I]

- (3) On the ending of the agreement under subsection (2)—
 - (a) a person who was paid amounts by the prospective buyer under the agreement must refund the amounts to the prospective buyer; and
 - (b) the prospective buyer must return to the recipient any documents about the disposal, other than the prospective buyer's copy of the agreement.
- (4) This section has effect despite any other Act or anything to the contrary in the agreement.

Division 2 Enforcement orders

157I Starting proceeding for enforcement order

- (1) The Coordinator-General may start a proceeding in the Planning and Environment Court—
 - (a) for an enforcement order to remedy or restrain a contravention of an enforceable condition; or
 - (b) if the Coordinator-General has started a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 157J.
- (2) A proceeding for an enforcement order may be started whether or not anyone's right has been, or may be, infringed by, or because of, the contravention of the enforceable condition the subject of the proceeding.

157J Making interim enforcement order

- (1) The Planning and Environment Court may make an order pending a decision of a proceeding for an enforcement order if the court is satisfied it would be appropriate to make the order.
- (2) The court may make the order subject to conditions.

-
- (3) However, a condition can not require the Coordinator-General to give an undertaking about damages.

157K Making enforcement order

- (1) The Planning and Environment Court may make an enforcement order if the court is satisfied the relevant contravention of an enforceable condition—
- (a) is happening, or has happened; or
 - (b) will happen unless the enforcement order is made.
- (2) The court may make the order whether or not an enforcement notice has been given for the contravention.

157L Effect of enforcement order

- (1) An enforcement order may direct a party to the proceeding for the order—
- (a) to stop an activity that constitutes, or will constitute, a contravention of an enforceable condition; or
 - (b) not to start an activity that will constitute a contravention of an enforceable condition; or
 - (c) to do anything required to stop a contravention of an enforceable condition; or
 - (d) to return anything to a condition as close as practicable to the condition it was in immediately before a contravention of an enforceable condition; or
 - (e) to do anything about the land or activity the subject of the order to comply with an enforceable condition.
- (2) Without limiting the Planning and Environment Court's powers, it may make an enforcement order requiring the repair, demolition or removal of a building.
- (3) An enforcement order must state the time by which it must be complied with.

[s 157M]

- (4) An enforcement order may be in terms the court considers appropriate to ensure compliance with an enforceable condition.

157M Powers about enforcement orders

- (1) The Planning and Environment Court's power to make an enforcement order to stop, or not to start, an activity may be exercised—
 - (a) whether or not it appears to the court that the person against whom the order is made (the *relevant person*) intends to engage again, or to continue to engage again, in the activity; and
 - (b) whether or not the relevant person has previously engaged in an activity of the same type; and
 - (c) whether or not there is danger of substantial damage to property or the environment or injury to another person if the relevant person engages, or continues to engage, in the activity.
- (2) The court's power to make an enforcement order to do anything may be exercised—
 - (a) whether or not it appears to the court that the person against whom the order is made (also the *relevant person*) intends to fail, or to continue to fail, to do the thing; and
 - (b) whether or not the relevant person has previously failed to do a thing of the same type; and
 - (c) whether or not there is danger of substantial damage to property or the environment or injury to anyone else if the relevant person fails, or continues to fail, to do the thing.
- (3) The court may cancel or change an enforcement order on the application of the Coordinator-General or the person against whom the order is made.

- (4) The court's powers under this section are in addition to, and do not limit, its other powers.

Note—

For costs, see the Integrated Planning Act, section 4.1.23.

157N Offence to contravene enforcement order

A person against whom an enforcement order has been made must comply with the order.

Maximum penalty—3000 penalty units or 2 years imprisonment.

Note—

See also the Integrated Planning Act, section 4.1.5 (Contempt and contravention of orders).

Division 3 General offences

157O Giving Coordinator-General a false or misleading document

A person must not, in relation to the performance of the Coordinator-General's functions, give the Coordinator-General a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—1665 penalty units.

157P Executive officer must ensure corporation does not commit particular offences

- (1) The executive officers of a corporation must ensure the corporation complies with sections 84, 157F, 157N and 157O.

Editor's note—

section 84 (Use of land under approved development scheme)

- (2) If a corporation commits an offence against section 84, 157F, 157N or 157O each of its executive officers also commits an

[s 157Q]

offence, namely, the offence of failing to ensure the corporation complies with the section.

Maximum penalty—the penalty for the contravention of the section by an individual.

- (3) Evidence that the corporation has been convicted of an offence against section 84, 157F, 157N or 157O is evidence that each of its executive officers committed the offence of failing to ensure the corporation complies with the section.
- (4) However, it is a defence for an executive officer to prove that—
 - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the section; or
 - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.
- (5) In this section—

executive officer, of a corporation, means a person who is concerned with, or takes part in, its management, whether or not the person is a director or the person's position is given the name of executive officer.

Division 4 Proceedings for offences

157Q Types of offence under Act

- (1) An offence against the following is a misdemeanour—
 - (a) section 157N;
 - (b) section 157P, to the extent the offence relates to an offence by a corporation against section 157N.
- (2) Any other offence against this Act is a summary offence.

157R Who may bring summary proceeding

A proceeding for a summary offence against this Act may be brought only by the Coordinator-General or a person acting for the Coordinator-General.

Part 8 Miscellaneous provisions

Division 1 Specific powers and duties of Coordinator-General

158 Power to contract

- (1) The Coordinator-General may negotiate and enter into contracts for the performance of the Coordinator-General's functions and duties or the exercise of the Coordinator-General's powers imposed or conferred on the Coordinator-General under any Act.
- (2) A contract entered into by the Coordinator-General shall be made, varied or discharged as follows—
 - (a) a contract that, if made between private persons, would be required by law to be in writing and under seal, shall be made in writing under the seal of the Coordinator-General and shall be varied or discharged in like manner;
 - (b) a contract that, if made between private persons, would be required by law to be in writing signed by the parties, shall be made under the hand of the person who holds the office of Coordinator-General or the Coordinator-General's delegate, and shall be varied or discharged in like manner;
 - (c) a contract that, if made between private persons, would be valid in law though not reduced to writing, may be made without writing by the Coordinator-General or the

[s 159]

Coordinator-General's delegate, and may be varied or discharged in like manner.

159 Power to compound

The Coordinator-General may compound, for such sum or other consideration as the Coordinator-General thinks fit, with any party to a contract with the Coordinator-General or with any person by or against whom an action may be or has been commenced against or by the Coordinator-General.

160 Power to obtain material from watercourse

The Coordinator-General may in and from any river, creek, stream, or watercourse search for, dig, raise, gather, take and carry away clay, earth, gravel, sand, stone or other material required by the Coordinator-General for works undertaken by the Coordinator-General.

161 Power as to roads

- (1) Where in connection with the undertaking of works by the Coordinator-General or the implementation of an approved development scheme a rearrangement of roads is required to be made, a regulation may close any existing road or part of an existing road that is no longer required or will not be required upon the rearrangement whereupon, notwithstanding any Act or law to the contrary—
 - (a) the dedication of that road or part as a road shall cease; and
 - (b) the land comprised in such road or part shall, as the regulation directs, vest in the Coordinator-General for an estate in fee simple or in the Crown as Crown land and may be used for the purposes of the works or development scheme concerned or be disposed of as the regulation directs.
- (2) A grant of land made to the Coordinator-General to give effect to a regulation made under subsection (1) shall be

subject to such reservations and conditions as are prescribed by the *Land Act 1994*.

- (3) The Coordinator-General may do 1 or more of the following—
 - (a) make surveys for new roads;
 - (b) open and construct new roads;
 - (c) increase the width of a road;
 - (d) raise or lower the soil of a road;
 - (e) close or partially close temporarily a road;
 - (f) divert a road.

162 Power to exclude or divert traffic

- (1) Where the Coordinator-General is satisfied that the proper performance of the Coordinator-General's functions or duties or exercise of the Coordinator-General's powers requires it, the Coordinator-General may—
 - (a) temporarily exclude from any road, bridge, bridge approaches or any part thereof, all traffic or traffic of a type nominated by the Coordinator-General; or
 - (b) temporarily divert all traffic, or traffic of a type nominated by the Coordinator-General, upon any road, bridge or bridge approaches.
- (2) Wherever it is practicable, notice of intention to exercise a power conferred by subsection (1) shall be given by advertisement published in a newspaper that circulates in the locality concerned.
- (3) A person shall not fail to comply with a direction given or notice erected in the exercise of a power conferred by this section.

[s 163]

163 Power to manage reserves and other lands

- (1) The Governor in Council may, by proclamation published in the gazette, place under the control and management of the Coordinator-General any land reserved and set apart for a public purpose, any cemetery, park, foreshore or other land, and any building, structure, or other thing that has been provided for out of moneys appropriated by Parliament.
- (2) Upon publication of the proclamation—
 - (a) the land, building, structure or other thing concerned shall vest in the Coordinator-General and, in the case of land, for such estate or interest as is specified in the proclamation; and
 - (b) the control and management of the land, building, structure or other thing concerned shall be a function of the Coordinator-General under this Act and a trust or provision that then regulates the management, control or use thereof shall cease to operate.
- (3) The registrar of titles and any other person charged with the duty of recording in a public register dealings affecting the land concerned shall, on the request of the Coordinator-General and production of sufficient notification of the making of the proclamation, make in the register that relates to the instrument of title to the land all entries necessary to give effect to the proclamation and the provisions of subsection (2).
- (4) The Coordinator-General may, according to the nature of that which the proclamation vests in the Coordinator-General and the purpose for which it is so vested, do all such things as the Coordinator-General thinks fit to effect that purpose and subject thereto to improve the land, building, structure or thing vested in the Coordinator-General.

164 Power to encroach upon roads and lands for purposes of works

The Coordinator-General may cause to be laid, led or carried under, on, through or over—

-
- (a) any road; or
 - (b) any land other than a road, upon payment of just compensation to the owner and occupier thereof;
- all tracks, lines, pipes, conduits, and material of every description required for the proper functioning of works.

165 Duty to take care at worksites and power to prevent traffic

- (1) During the progress of works undertaken by the Coordinator-General the Coordinator-General—
 - (a) shall take proper precautions against accident and to prevent injury to land adjoining the site of the works or to buildings and structures on such land; and
 - (b) shall cause the site of the works to be adequately lighted and guarded during the hours of darkness; and
 - (c) may cause such barricades to be erected across or in any road as the Coordinator-General thinks fit and thereby prevent the passage of traffic.
- (2) A person shall not take down, remove or alter the position of any barricade erected by or on behalf of the Coordinator-General or extinguish or move any light placed by the Coordinator-General or on his or her behalf save under the authority of the Coordinator-General.

Division 2 Provisions concerning legal liability of Coordinator-General

166 Service on Coordinator-General

A notice, order, process, summons, or document of any kind that is to be served on the Coordinator-General shall be—

- (a) delivered to the Coordinator-General personally; or
- (b) sent by prepaid post addressed to the Coordinator-General;

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and in either case shall be taken to have been served when it is received by the Coordinator-General.

167 Limited liability of Coordinator-General for injury to person or property

- (1) Liability shall not attach to the Coordinator-General, and an action shall not lie against the Coordinator-General, in respect of anything done or omitted to be done by the Coordinator-General or by his or her contractors, officers or workers in or in connection with the construction, maintenance, management or control of any road, bridge or culvert or the approaches to any bridge or culvert save in respect of the negligent acts of the Coordinator-General, the Coordinator-General's officers or workers in connection with the construction, maintenance, management or control thereof.
- (2) A person shall not be entitled to recover against the Coordinator-General, the Coordinator-General's officers or workers, damages in respect of any injury to the person or to property on account of anything done or omitted for the purposes of the performance of the Coordinator-General's functions or duties or the exercise of the Coordinator-General's powers under any Act or arising out of employment for any of those purposes unless—
 - (a) in the case of injury to the person—the person alleged to be injured shall, when so required by the Coordinator-General submit himself or herself for examination by a medical practitioner (nominated by the Coordinator-General), who is hereby authorised to make all relevant examinations and tests, and furnish to that medical practitioner all information that the Coordinator-General requires to enable the Coordinator-General to ascertain the true nature and extent of the injury; or
 - (b) in the case of injury to property—the plaintiff shall, when so required by the Coordinator-General, permit a person nominated by the Coordinator-General to enter

upon and inspect the property alleged to be injured and furnish to that person all facilities and information that the Coordinator-General requires to enable the Coordinator-General to ascertain the full nature and extent of the injury and the amount (if any) expended in repairing the property.

- (3) Noncompliance with all or any of the provisions of subsection (2) shall not act as a bar to the maintenance of an action or to the recovery of damages therein if the court that determines the action is of opinion that there was reasonable excuse for such non-compliance.

168 Personal injury action adjudicated by judge alone

Every claim for damages in respect of injury to the person, fatal or non-fatal, that is made in an action against the Coordinator-General, the Coordinator-General's officers or workers on account of anything done or omitted for the purposes of the performance of the Coordinator-General's functions or duties or the exercise of the Coordinator-General's powers under any Act or arising out of employment for any of those purposes shall, where action is brought in the Supreme Court, be heard and determined by a judge without a jury.

169 Officers and workers not personally liable

- (1) An officer or worker of the Coordinator-General or his or her delegate shall not incur any personal liability on account of an act done or omission made by him or her under the direction of the Coordinator-General or his or her delegate and bona fide for the purposes of the performance of the Coordinator-General's functions or duties or the exercise of the Coordinator-General's powers under any Act.
- (2) An expense incurred by an officer or worker of the Coordinator-General or the Coordinator-General's delegate in respect of an act so done shall be taken to be an expense authorised by this Act or, as the case may be, by the Act that

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imposes or confers on the Coordinator-General the function, duty or power in question.

Division 3 Facilitation of execution of Act

171 Publication of document or information by Coordinator-General

- (1) This section applies if a provision of this Act requires the Coordinator-General to publicly notify a document or information.
- (2) The notification must be made by placing a link to a record or register of the document or information on—
 - (a) the department's website on the internet; or
 - (b) another website the Coordinator-General considers appropriate.
- (3) However, the document or information may also be publicly notified in any other way decided by the Coordinator-General.

172 Mode of service

In addition to any other mode of service available a writing that is to be served on any person under this Act may be sent to the person by prepaid post addressed to the person at the person's address last known to the sender.

173 Regulation-making power

- (1) The Governor in Council may make regulations not inconsistent with this Act providing with respect to the following—
 - (a) the preparation of programs of works, development areas, development schemes, environmental coordination and procedures by or pursuant to which State development areas are to be declared or varied or terminated;

- (b) the custody and affixing of the official seal of the Coordinator-General or any body corporate established under this Act;
- (c) the procedure of meetings and the conduct of the business of any body, corporate or unincorporate, established under this Act preservation of the validity of the proceedings of any such body;
- (d) the manner and detail in which the Coordinator-General, and any body, corporate or unincorporate, shall perform a function or duty or exercise a power imposed or conferred upon the Coordinator-General or it by this Act;
- (e) safeguarding and securing against trespass, injury, misuse, or use for or in connection with any purpose not authorised by or under this Act, authorised works or lands and property vested in or under the management or control of the Coordinator-General or of a project board;
- (f) the use by the public of authorised works or of lands or property vested in or under the management or control of the Coordinator-General or a project board for or in connection with any purpose;
- (g) requirements for environmental impact statements, reports, studies or the process under part 4, division 3, to allow—
 - (i) the process to be accredited under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth); or
 - (ii) the making of a bilateral agreement under that Act to which the State is proposed as a party; or
 - (iii) the State to meet its obligations under a bilateral agreement under that Act to which the State is a party;
- (h) forms to be used for the purposes of this Act and the particular purposes for which the forms shall respectively be used;

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- (i) penalties not exceeding 20 penalty units for any breach of the regulations;
 - (j) all matters required or permitted by this Act to be prescribed;
 - (k) all matters, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.
- (2) Provision made by the regulations may, if the Governor in Council thinks fit, be so made as to require an exercise of discretion or the formation of an opinion by the Minister or by any other person.

174 Coordinator-General must make guidelines

- (1) The Coordinator-General must make guidelines for the processes to be followed by proponents and the Coordinator-General for—
- (a) a consultation and negotiation period for the proposed taking, under section 125(1)(f), of land for infrastructure facilities; and
 - (b) dealing in the way mentioned in section 129 with the land taken; and
 - (c) investigating, under part 6, division 7, the potential of land for infrastructure facilities.
- (2) The guidelines are statutory instruments under the *Statutory Instruments Act 1992*.
- (3) A guideline made under subsection (1)(a) must provide for the following—
- (a) the giving of notice, including public notice, about the proposed acquisition of the land;
 - (b) that the notice must state that it is intended to reach agreement through consultation and negotiation to acquire the land, but that if agreement can not be reached, the land may be compulsorily taken;

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- (c) notification of the day for starting consultation and negotiation for the proposed taking of the land, which must be at least 1 month after the notice is given;
 - (d) a consultation and negotiation period of at least 4 months;
 - (e) that the notice must state the day the consultation and negotiation period ends;
 - (f) that there must be at least 2 months of consultation and negotiation after the statement has been published in the gazette under section 125(5)(a)(ii);
 - (g) procedural requirements for the consultation and negotiation period.
- (4) Subject to subsection (3), a guideline made under subsection (1)(a) must be formulated having regard to the procedures and underlying principles of the *Mineral Resources Act 1989*, part 17 and in particular, the obligation for consultation and negotiation.
- (5) A guideline may also provide for procedural requirements to be complied with before the consultation and negotiation period starts.

175 Annual report

- (1) The Coordinator-General shall as soon as is practicable after 30 June in each year prepare and furnish to the Minister a report on the operations of the department under the direction of the Coordinator-General during the period of 12 months ended on 30 June last past.
- (2) The Minister shall lay the report of the Coordinator-General before the Legislative Assembly within 14 sitting days from the day on which the Minister receives the report.
- (3) In this section—
sitting days means days on which the Legislative Assembly sits for the dispatch of business.

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Division 4 Other miscellaneous provisions

175A **EIS must not, under particular other Acts, be required for PNG pipeline project**

- (1) This section applies—
 - (a) to an application under the *Environmental Protection Act 1994* for an environmental authority (chapter 5A activities) for the PNG pipeline project; or
 - (b) if, under the *Nature Conservation Act 1992*, section 34, 35 or 38, a person seeks an interest in land in a protected area and the interest sought is for the PNG pipeline project.
- (2) Despite the *Environmental Protection Act 1994*, section 104 and the *Nature Conservation Act 1992*, section 39B, an EIS can not be required under those sections in relation to the application or the seeking of the interest.
- (3) In this section—

PNG pipeline project means all of the following, but only to the extent it was the subject of the 1998 Impact Assessment Study under this Act—

- (a) the proposed project that involves the construction and operation of 1 or more pipelines to transport gas from the Southern Highlands of Papua New Guinea, across Torres Strait and Cape York Peninsula to parts of the State including Townsville and Gladstone;
- (b) ancillary works, including, for example access roads, construction camps and compressor and other stations, to enable the construction and the ongoing operation of the pipeline or pipelines.

Part 9 Transitional provisions

Division 1 Transitional provisions for State Development and Public Works Organisation Amendment Act 1999

176 Studies being prepared are taken to be EISs for this part

- (1) This section applies if—
 - (a) a project involves—
 - (i) development requiring an application for a development approval; or
 - (ii) mining; or
 - (iii) land that the Minister proposes to designate under the Integrated Planning Act, section 2.6.8, as community infrastructure; and
 - (b) at the commencement of section 26, the proponent is preparing a study under this Act about the environmental effects of the project; and
 - (c) the Coordinator-General, under section 26, declares the project to be a significant project.
- (2) The proponent may complete the study as if the *State Development and Public Works Organisation Amendment Act 1999* had not commenced.
- (3) The study, when completed and given to the Coordinator-General, is taken to be an EIS prepared under part 4.
- (4) Any written submission made about the study is taken to be a properly made submission for an application for the project if the application—
 - (a) is for a development approval requiring impact assessment under the Integrated Planning Act; or

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- (b) is for an approval under an Act other than the Integrated Planning Act and the application requires public notification.
- (5) Words used in this section that are defined in part 4 have the same meaning in this section.

Division 2 Transitional provisions for State Development and Public Works Organisation and Other Legislation Amendment Act 2005

177 Existing approvals for the use of land in State development area

- (1) This section applies to an approval under section 84(4)(b) for the use of land in a State development area if the approval was granted before the commencement of this section.
- (2) Section 84A applies to the approval.
- (3) However, for applying section 84A(3) the approval is taken to have taken effect only when this section commenced.

178 Conditions for north-south bypass tunnel project

- (1) This section applies for the significant project called the 'north-south bypass tunnel project'.
- (2) Sections 35(4)(d) and part 4, division 8 are taken to apply to the project.
- (3) The conditions stated in appendix 1, schedule 3 of the Coordinator-General's report dated 25 August 2005 evaluating the EIS for the project are taken to be imposed conditions for the undertaking of the project.

Division 3 **Transitional provisions for
amendments under Revenue and
Other Legislation Amendment Act
(No. 2) 2008**

179 **Meaning of *commencement* for div 3**

In this division—

commencement means the date of assent of the *Revenue and Other Legislation Amendment Act (No. 2) 2008*.

180 **Existing evaluation requests under pt 4, div 3A**

- (1) A notice under former section 35D given before the commencement is taken to be an application under section 35C as in force from the commencement.
- (2) Subject to section 181(2), this Act as in force from the commencement applies to the application and the evaluation under part 4, division 3A for the application.

181 **Fees**

- (1) The fees stated in schedule 1, part 2 under the heading ‘Significant project declaration and EIS process’ do not apply to a proponent of a significant project declared before the commencement.
- (2) The fees stated in schedule 1, part 2 do not apply to an evaluation under part 4, division 3A for a notice under former section 35D given before the commencement.

182 **Enforcement notices and orders**

- (1) An enforcement notice or enforcement order may relate to an enforceable condition that existed before the commencement.
- (2) However, an enforcement notice or enforcement order can not relate to a contravention of an enforceable condition if the act

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or omission that constitutes the contravention happened before the commencement.

Schedule 1 Fees for part 4

section 25A

Part 1 General provisions

1 Operation of sch 1

- (1) This schedule provides for the fees mentioned in section 25A.
- (2) The fees are for the matters relating to the administration of part 4 by the Coordinator-General that are stated in column 1 of the table in part 2.
- (3) If, under section 32(1)(b), the process under part 4, division 3 involves an EIS for a stage of a significant project, the fees apply as if each stage of the project were a whole significant project.

2 When the fees are payable

The fee for each of the matters stated in column 1 of the table in part 2 is payable on the happening of the event stated opposite the matter in column 2 of the table.

3 Amount of the fees

- (1) The amount of the fee for each of the matters is—
 - (a) if the fee becomes payable before 2010—the amount stated opposite the matter in column 3 of the table in part 2 (*column 3*); or
 - (b) if the fee becomes payable during 2010—the amount stated opposite the matter in column 3, CPI indexed for 2010; or
 - (c) if the fee becomes payable during any later year—the amount stated opposite the matter in column 3, CPI indexed for 2010 and all years since 2010.

(2) However, if the amount provided for under subsection (1) is an amount that is or includes a fraction of a dollar, the amount is taken to be the amount that is the nearest dollar, rounded up.

(3) In this section—

CPI means—

- (a) the all groups index for Brisbane published by the Australian Bureau of Statistics; or
- (b) if the index ceases to be published, another similar index prescribed under a regulation.

CPI indexed, for a year (the *relevant year*), means the addition of any amount that equates to any percentage increase in the CPI between the following quarters—

- (a) the December quarter for the year before the previous year to the relevant year;
- (b) the December quarter for previous year to the relevant year.

4 Access to adjusted amounts

- (1) From and including 2010, the Coordinator-General must publish on the department's website the amount of the fee for each of the matters as worked out under section 3.
- (2) A failure to comply with subsection (1) does not limit or otherwise affect the operation of section 3.

Part 2 Table of fees

Column 1 Matter for which fee is payable	Column 2 Event when payment is required	Column 3 Amount of fee (up to 2010) \$
Significant project declaration and EIS process (part 4, divisions 2 and 3)		
application for declaration of significant project (section 27AA)	the making of the application	25 990.00
notice of requirement for EIS and of draft terms of reference (section 29) and finalising terms of reference (section 30)	public notification for the significant project (section 29(1)(b))	25 000.00
the matters mentioned in sections 31, 32 and 33(1) relating to an EIS	the giving to the proponent of a copy of the finalised terms of reference (section 30(1))	50 000.00
Coordinator-General's evaluation of EIS, submissions, other material and preparation of report (section 35)	when the submission period for the EIS ends (section 33(1)(d))	50 000.00
Evaluation of changes to significant project (part 4, division 3A)		
application for evaluation of environmental effects of proposed change (section 35C)	when the application is made	990.00

Schedule 1

Column 1 Matter for which fee is payable	Column 2 Event when payment is required	Column 3 Amount of fee (up to 2010) \$
<p>the matters mentioned in sections 35F to 35J if—</p> <p>(a) the Coordinator-General decides under section 35G not to require public notification; and</p> <p>(b) the decision notice under section 35G does not accompany the Coordinator-General's change report (section 35G(7))</p>	<p>on the giving of the decision notice</p>	<p>25 000.00</p>
<p>the matters mentioned in sections 35F to 35J if the Coordinator-General decides under section 35G to require public notification</p>	<p>on the giving of the decision notice under section 35G</p>	<p>50 000.00</p>

Schedule 2 Dictionary

section 2

advice agency means an advice agency under the Integrated Planning Act.

applicable code see the *Integrated Planning Act 1997*, schedule 10.

applicant, for part 5A, see section 76D.

application means, in part 5, an application for approval to rezoning of land or for consent to use land or use or erect any building or other structure for any purpose so as to establish the legal right to use land for a prescribed development.

appropriate register, for part 6, division 8, see section 153A.

approval, for part 4, see section 24.

approved development scheme means a development scheme relating to land situated in a State development area and approved by the Governor in Council under this Act.

approved person see section 100(1).

approved plan means an infrastructure coordination plan approved by the Governor in Council.

assessment manager, for part 4, see section 24.

authorised works means works authorised under this Act to be undertaken by the Coordinator-General.

body of water means water contained in a river, creek, stream, watercourse, lake, lagoon, swamp, marsh or subterranean deposit.

concurrence agency means a concurrence agency under the Integrated Planning Act.

Coordinator-General means the corporation sole constituted under section 8A of the *State Development and Public Works Organisation Act 1938* and preserved, continued in existence and constituted under section 8 of this Act.

Coordinator-General's change report, for part 4, see section 35I(1).

Coordinator-General's report, for part 4, see section 24.

critical infrastructure easement, for part 6, division 8, see section 153A.

critical infrastructure project see section 76D.

decision maker, for part 5A, see section 76D.

declaration, for part 5A, see section 76D.

development means the use of land or water within the State or over which the State claims jurisdiction and includes the construction, undertaking, carrying out, establishment, maintenance, operation, management and control of any works or private works on or in land or water.

development approval means a development approval under the Integrated Planning Act.

easement holder, for part 6, division 8, see section 153A.

EIS means environmental impact statement.

enforceable condition see section 157A.

enforcement notice see section 157B(2).

enforcement order means an order made under part 7A, division 2.

environment includes—

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- (d) the social, economic, aesthetic and cultural conditions that affect, or are affected by, things mentioned in paragraphs (a) to (c).

environmental authority (mining lease), for part 4, see section 24.

environmental effects means the effects of development on the environment, whether beneficial or detrimental.

Environmental Protection Act, for part 4, see section 24.

EPA Minister, for part 4, see section 24.

foreshore means the part of the bed, shore or banks of the sea or of any harbour, including any tidal navigable river, that is ordinarily covered and uncovered by the flow and ebb of the tide at spring tides.

IDAS see the Integrated Planning Act, schedule 10.

imposed condition, for part 4, see section 54B(2).

infrastructure means those facilities, services and utilities that, in the opinion of the Coordinator-General, are required by or associated with a development or works and includes training schemes relevant to, and accommodation required for a work force related to a development or works and facilities, services and utilities required by or associated with such training schemes or accommodation.

infrastructure coordination plan means a plan identifying the infrastructure requirements in respect of a prescribed development.

Integrated Planning Act means the *Integrated Planning Act 1997*.

land includes any estate or interest in land, and any easement, right, power or privilege in, over, or in connection with land, and any wharf.

local body means—

- (a) a government owned corporation; or
- (b) a statutory body as defined under the *Statutory Bodies Financial Arrangements Act 1982*; or
- (c) another body established under an Act; or
- (d) a corporation whose shares are wholly owned by—

- (i) the State; or
- (ii) the State and 1 or more local governments; or
- (iii) 1 or more local governments; or
- (e) a corporation whose shares are wholly owned by—
 - (i) a corporation of the type mentioned in paragraph (d); and
 - (ii) 1 or more local governments.

material change of use see the *Integrated Planning Act 1997*, section 1.3.5.

Mineral Resources Act, for part 4, see section 24.

MRA Minister, for part 4, see section 24.

nominated entity, for part 4, see section 24.

notice to decide, for part 5A, see section 76D.

Planning and Environment Court means the Planning and Environment Court under the *Integrated Planning Act*.

prescribed decision, for part 5A, see section 76D.

prescribed development means a proposed development, processing or handling of major economic significance to the State declared by the Governor in Council to be a prescribed development.

prescribed process, for part 5A, see section 76D.

prescribed project, for part 5A, see section 76D.

private works means the whole and every part of any work, project, service, utility, undertaking or function that a person is required or permitted to undertake pursuant to an agreement between the person and the Government and, in particular, includes the provision of housing, water, drainage, sewerage, roads, power and other infrastructure pursuant to such an agreement.

progression notice, for part 5A, see section 76D.

properly made submission, for part 4, see section 24.

proponent, for part 4, see section 24.

recipient, for a provision about an enforcement notice given or proposed to be given, means the person to whom the notice has been, or is proposed to be, given.

referral coordination means referral coordination under the Integrated Planning Act.

registered owner, for part 5A, see section 76D.

registrar, for part 6, division 8, see section 153A.

relevant law, for part 5A, see section 76D.

relevant local government, for part 4, see section 24.

relevant public utility easement, for part 6, division 8, see section 153A.

significant project, for part 4, see section 24.

State development area means a part of the State or of an area over which the State claims jurisdiction, delineated on a plan, and declared under this Act to be a State development area.

step in notice, for part 5A, see section 76D.

submission period, for part 4, see section 24.

undertake includes to investigate, plan, construct, provide, effect, establish, carry out, maintain, manage and control.

voluntary environmental agreement, for part 5A, see section 76D.

wild river area see the *Wild Rivers Act 2005*, schedule.

wild river declaration see the *Wild Rivers Act 2005*, schedule.

works means the whole and every part of any work, project, service, utility, undertaking or function—

- (a) that the Crown, the Coordinator-General or other person or body who represents the Crown, or any local body is or may be authorised under any Act to undertake; or
- (b) that is or has been (before or after the date of commencement of this Act) undertaken by the Crown, the Coordinator-General or other person or body who represents the Crown, or any local body under any Act; or

- (c) that is included or is proposed to be included by the Coordinator-General as works in a program of works, or that is classified by the holder of the office of Coordinator-General as works.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 23 February 2009. Future amendments of the State Development and Public Works Organisation Act 1971 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint Date
1	1981 Act No. 18	24 April 1981	15 December 1994
1A	1996 Act No. 37	1 December 1996	8 January 1997
2	1999 Act No. 32	16 June 1999	25 June 1999
2A	1999 Act No. 69	3 February 2000	11 February 2000
2B	2000 Act No. 34	13 September 2000	20 September 2000
3 rv	2001 Act No. 46	28 June 2001	3 August 2001
3A rv	2001 Act No. 46	28 February 2002	28 February 2002
3B rv	2001 Act No. 46	1 March 2002	15 March 2002
4 rv	2001 Act No. 46	1 March 2002	27 March 2002

Reprint No.	Amendments included	Effective	Notes
4A	2002 Act No. 74	1 April 2003	
4B	2004 Act No. 53	29 November 2004	

Reprint No.	Amendments included	Effective	Notes
4C	2004 Act No. 12	25 March 2005	
4D	2005 Act No. 57	28 November 2005	
4E	2005 Act No. 42	2 December 2005	
4F	2006 Act No. 31	1 June 2006	
4G	2006 Act No. 54 2006 Act No. 59	7 December 2006	R4G withdrawn, see R5
5	—	7 December 2006	
5A	2007 Act No. 39	21 September 2007	
5B	2007 Act No. 58	16 November 2007	
5C	2008 Act No. 75	11 December 2008	
5D	2008 Act No. 52	1 January 2009	
5E	2009 Act No. 3	23 February 2009	R5E withdrawn, see R6
6	—	23 February 2009	

5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	2
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

State Development and Public Works Organisation Act 1971 No. 55 (prev State and Regional Planning and Development, Public Works Organization and Environmental Control Act 1971)

date of assent 2 December 1971

commenced 1 January 1972 (proc pubd gaz 25 December 1971 p 2014)

amending legislation—

State and Regional Planning and Development, Public Works Organization and Environmental Control Act Amendment Act 1973 No. 26

date of assent 19 April 1973

commenced on date of assent

State and Regional Planning and Development, Public Works Organization and Environmental Control Act Amendment Act 1974 No. 60

date of assent 27 September 1974

commenced on date of assent

Limitation of Actions Act 1974 No. 75 s 4 sch

date of assent 1 November 1974
commenced 1 July 1975 (see s 2)

State and Regional Planning and Development, Public Works Organization and Environmental Control Act Amendment Act 1978 No. 62

date of assent 23 October 1978
commenced on date of assent

State Development and Public Works Organization Act and Other Acts Amendment Act 1979 No. 26 pts 1–2

date of assent 6 June 1979
commenced on date of assent

State Development and Public Works Organization Act Amendment Act 1981 No. 18

date of assent 24 April 1981
commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 1 December 1996 (1996 SL No. 361)

State Development and Public Works Organisation Amendment Act 1999 No. 32

date of assent 16 June 1999
commenced on date of assent

Trusts (Investments) Amendment Act 1999 No. 69 pt 1, s 7 sch

date of assent 6 December 1999
ss 1–2 commenced on date of assent
remaining provisions commenced 3 February 2000 (2000 SL No. 16)

Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2

date of assent 8 June 2000
ss 1–2, 590 commenced on date of assent (see s 2(1))
remaining provisions commenced 28 February 2002 (2002 SL No. 27)

Water Act 2000 No. 34 ss 1–2, 1145 sch 3

date of assent 13 September 2000
commenced on date of assent (see s 2(2))

Medical Practitioners Registration Act 2001 No. 7 ss 1–2, 302 sch 2

date of assent 11 May 2001
ss 1–2 commenced on date of assent
remaining provisions commenced 1 March 2002 (2002 SL No. 30)

State Development and Other Legislation Amendment Act 2001 No. 46 pts 1, 7 s 30(2) sch 2

date of assent 28 June 2001
ss 1–2 commenced on date of assent
ss 30, 40, 41 (to the extent it ins ss 29PA–29PB) commenced 16 June 1999 (see s 2(1))
remaining provisions commenced 28 June 2001 (2001 SL No. 101)

Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch

date of assent 13 December 2002
ss 1–2 commenced on date of assent
s 90 commenced 31 March 2003 (2003 SL No. 51)
remaining provisions commenced 1 April 2003 (2003 SL No. 51)

Geothermal Exploration Act 2004 No. 12 ss 1–2, ch 8 pt 7

date of assent 31 May 2004
ss 1–2 commenced on date of assent
remaining provisions commenced 25 March 2005 (2005 SL No. 43)

Statute Law (Miscellaneous Provisions) Act 2004 No. 53

date of assent 29 November 2004
commenced on date of assent

Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1

date of assent 14 October 2005
ss 1–2 commenced on date of assent
remaining provisions commenced 2 December 2005 (2005 SL No. 287)

**State Development and Public Works Organisation and Other Legislation
Amendment Act 2005 No. 57 pts 1, 3**

date of assent 28 November 2005
commenced on date of assent

Mineral Resources and Other Legislation Amendment Act 2006 No. 31 s 1, pt 6

date of assent 1 June 2006
commenced on date of assent

**State Development and Other Legislation Amendment Act 2006 No. 54 pts 1–2, s 2
sch**

date of assent 7 December 2006
commenced on date of assent

Wild Rivers and Other Legislation Amendment Act 2006 No. 59 ss 1, 85 sch

date of assent 7 December 2006
commenced on date of assent

Land Court and Other Legislation Amendment Act 2007 No. 39 ss 1–2, 41 sch

date of assent 29 August 2007
ss 1–2 commenced on date of assent
remaining provisions commenced 21 September 2007 (2007 SL No. 236)

South East Queensland Water (Restructuring) Act 2007 No. 58 s 1, pt 3 div 2

date of assent 16 November 2007
commenced on date of assent

**Environmental Protection and Other Legislation Amendment Act (No. 2) 2008 No.
52 ss 1–2, 98 sch 2**

date of assent 23 October 2008
ss 1–2 commenced on date of assent
remaining provisions commenced 1 January 2009 (2008 SL No. 388)

Revenue and Other Legislation Amendment Act (No. 2) 2008 No. 75 s 1, pt 17

date of assent 11 December 2008

commenced on date of assent

Greenhouse Gas Storage Act 2009 No. 3 s 1, ch 9 pt 23

date of assent 23 February 2009

commenced on date of assent

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

Title amd 1978 No. 62 s 2

Short title

s 1 sub 1978 No. 62 s 3

amd 1999 No. 32 s 2 sch

Definitions

s 2 orig s 2 om 1999 No. 32 s 2 sch

Note—prev s 2 contained definitions for this Act. Definitions are now located in the schedule (Dictionary).

pres s 2 sub 2001 No. 46 s 31(1)

amd 2008 No. 75 s 102

Administration of Act

s 3 prev s 3 amd 1973 No. 26 s 2; 1978 No. 62 s 4; 1981 No. 18 s 2
om R1 (see RA s 36)

Appointment of Coordinator-General

s 4 prev s 4 amd R1 (see RA s 37)

om 2001 No. 46 s 30(2) sch 2

Appointment of Deputy Coordinator-General

s 5 sub 1999 No. 32 s 3(1)

amd 2006 No. 54 s 3

Tenure of appointment under ss 4 and 5

s 6 amd 2006 No. 54 s 4

Termination of appointment under ss 4 and 5

s 7 amd 2000 No. 16 s 590 sch 1 pt 2; 2001 No. 46 s 30(2) sch 2

Incorporation of Coordinator-General

s 8 amd 2006 No. 54 s 5

Functions and duties of Coordinator-General

s 10 amd 1978 No. 62 s 6; 2001 No. 46 s 30(2) sch 2

Power to hold inquiry

s 12 amd 2001 No. 46 s 30(2) sch 2

Cooperation with Coordinator-General

s 13 amd 1978 No. 62 s 7; 2001 No. 46 s 30(2) sch 2

Appointment of persons to aid Coordinator-General

s 14 amd 2001 No. 46 s 30(2) sch 2

Division 3—Officers and workers of Coordinator-General

div hdg amd 1978 No. 62 s 8
sub 1996 No. 37 s 147 sch 2

Selection of works for program of works and their performance

s 18 prev s 18 sub 1978 No. 62 s 9
om 1996 No. 37 s 147 sch 2

Submission of program of works to Governor in Council

s 19 amd 2001 No. 46 s 30(2) sch 2

Alterations to approved program of works

s 20 amd 1978 No. 62 s 11; 2001 No. 46 s 30(2) sch

Implementation of program of works as approved

s 21 prev s 21 sub 1978 No. 62 s 10
om 1996 No. 37 s 147 sch 2

Objectives of comprehensive program of works

s 23 amd 1978 No. 62 s 12; 2001 No. 46 s 30(2) sch 2

PART 4—ENVIRONMENTAL COORDINATION**Division 1—Preliminary**

div hdg ins 1999 No. 32 s 5

Definitions for pt 4

s 24 ins 1999 No. 32 s 5
def “**approval**” ins 2001 No. 46 s 32
def “**assessment manager**” amd 2001 No. 46 s 30(2) sch 2
def “**concurrence agency**” ins 2001 No. 46 s 32
amd 2001 No. 46 s 30(2) sch 2
om 2006 No. 54 s 6(1)
def “**Coordinator-General’s change report**” ins 2005 No. 57 s 19(2)
def “**Coordinator-General’s report**” ins 2001 No. 46 s 32
def “**development approval**” amd 2001 No. 46 s 30(2) sch 2
om 2006 No. 54 s 6(1)
def “**EIS**” om 2005 No. 57 s 19(1)
def “**environmental authority (mining lease)**” ins 2001 No. 46 s 32
def “**Environmental Protection Act**” ins 2001 No. 46 s 32
def “**EPA Minister**” ins 2001 No. 46 s 32
def “**IDAS**” amd 2001 No. 46 s 30(2) sch 2
om 2006 No. 54 s 6(1)
def “**imposed condition**” ins 2005 No. 57 s 19(2)
def “**Mineral Resources Act**” ins 2001 No. 46 s 32
def “**MRA Minister**” ins 2001 No. 46 s 32
def “**nominated entity**” ins 2005 No. 57 s 19(2)

Endnotes

def “**properly made submission**” amd 2005 No. 57 s 19(3)
def “**proponent**” amd 2006 No. 54 s 6(2)
def “**relevant local government**” ins 2005 No. 57 s 19(2)

Supervision of environment

25 (prev s 29) sub 1978 No. 62 s 13
renum 1999 No. 32 s 4
amd 1999 No. 32 s 6
(2)–(4) exp 30 March 2000 (see s 29A(4))

Division 1A—Coordinator-General’s costs of environmental coordination process
div 1A (ss 25A–25B) ins 2008 No. 75 s 103

Division 2—Significant project

div hdg ins 1999 No. 32 s 7

Subdivision 1—Power to declare significant project

div hdg ins 2008 No. 75 s 104

Declaration of significant project

s 26 ins 1999 No. 32 s 7
amd 2001 No. 46 ss 30(2), 33 sch 2; 2004 No. 12 s 159; 2005 No. 57 s 20;
2009 No. 3 s 591

Matters Coordinator-General considers before making declaration

s 27 ins 1999 No. 32 s 7

Subdivision 2—Applying for and obtaining significant project declaration

sdiv 2 (ss 27AA–27AC) ins 2008 No. 75 s 105

Subdivision 3—Miscellaneous provisions

sdiv hdg ins 2008 No. 75 s 105

Application of Judicial Review Act 1991

s 27AD ins 2008 No. 75 s 105

Lapsing of declaration

s 27A ins 2005 No. 57 s 21

Application of divs 3–6

s 28 ins 1999 No. 32 s 7
amd 2005 No. 57 s 22

Division 3—EIS process

div hdg ins 1999 No. 32 s 7

Notice of requirement for EIS and of draft terms of reference

s 29 ins 1999 No. 32 s 7
amd 2005 No. 57 s 23

Definitions for div 5

s 29Q ins 1999 No. 32 s 7
om 2001 No. 46 s 42

Finalising terms of reference

- s 30** prev s 30 om 1978 No. 62 s 13
pres s 30 ins 1999 No. 32 s 7
sub 2005 No. 57 s 24

Coordinator-General may seek information to assist preparation of EIS

- s 31** prev s 31 om 1978 No. 62 s 13
pres s 31 ins 1999 No. 32 s 7

Preparation of EIS

- s 32** prev s 32 amd 1974 No. 60 s 2
om 1978 No. 62 s 13
pres s 32 ins 1999 No. 32 s 7
sub 2001 No. 46 s 34
amd 2005 No. 57 s 25

Public notification of EIS

- s 33** prev s 33 om 1978 No. 62 s 13
pres s 33 ins 1999 No. 32 s 7
amd 2001 No. 46 s 35

Making submissions on EIS

- s 34** prev s 34 om 1978 No. 62 s 13
pres s 34 ins 1999 No. 32 s 7

Coordinator-General evaluates EIS, submissions, other material and prepares report

- s 35** prev s 35 om 1978 No. 62 s 13
pres s 35 ins 1999 No. 32 s 7
amd 2001 No. 46 s 36; 2005 No. 57 s 26; 2009 No. 3 s 592

Lapsing of Coordinator-General's report

- s 35A** ins 2005 No. 57 s 27

Division 3A—Changes to project

- div hdg** ins 2005 No. 57 s 28

Application of div 3A

- s 35B** ins 2005 No. 57 s 28

Application for evaluation of environmental effects of proposed change

- s 35C** ins 2005 No. 57 s 28
sub 2008 No. 75 s 106

Notice to Coordinator-General

- s 35D** ins 2005 No. 57 s 28
om 2008 No. 75 s 106

Requirements for application

- prov hdg** amd 2008 No. 75 s 107(1)
s 35E ins 2005 No. 57 s 28
amd 2008 No. 75 s 107(2)

Endnotes

Coordinator-General may seek comments or information

s 35F ins 2005 No. 57 s 28
amd 2008 No. 75 s 108

Public notice

s 35G ins 2005 No. 57 s 28
amd 2008 No. 75 s 109

Criteria for evaluating

s 35H ins 2005 No. 57 s 28

Coordinator-General's change report

s 35I ins 2005 No. 57 s 28
amd 2008 No. 75 s 110; 2009 No. 3 s 593

Distribution of Coordinator-General's change report

s 35J ins 2005 No. 57 s 28

Relationship with Coordinator-General's report

s 35K ins 2005 No. 57 s 28

Lapsing of Coordinator-General's change report

s 35L ins 2005 No. 57 s 28

Division 4—Relationship with Integrated Planning Act

div hdg ins 1999 No. 32 s 7
amd 2001 No. 46 s 30(2) sch 2

Subdivision 1—Development approvals

sdiv hdg ins 2001 No. 46 s 37

Application of sdiv 1

prov hdg prev prov hdg om 1978 No. 62 s 13
pres prov hdg amd 2001 No. 46 s 38(1)

s 36 prev s 36 om 1978 No. 62 s 13
pres s 36 amd 2001 No. 46 s 38(2)

Applications for material change of use or requiring impact assessment

s 37 prev s 37 om 1978 No. 62 s 13
pres s 37 ins 1999 No. 32 s 7
amd 2001 No. 46 ss 39, 30(2) sch 2

Applications for material change of use of premises in wild river areas

s 37A ins 2005 No. 42 s 52 sch 1

When the decision stage for the project starts under IDAS

s 38 prev s 38 sub 1973 No. 26 s 3
om 1978 No. 62 s 14(b)
pres s 38 ins 1999 No. 32 s 7
amd 2001 No. 46 s 30(2) sch 2

Application of Coordinator-General's report to IDAS

s 39 prev s 39 sub 1973 No. 26 s 4
om 1978 No. 62 s 14(b)

pres s 39 ins 1999 No. 32 s 7
 amd 2001 No. 46 ss 40 (retro), 30(2) sch 2; 2005 No. 57 s 29; 2005 No. 42 s
 52 sch 1

Assessment manager to be given copy of Coordinator-General's report

s 40 prev s 40 amd 1973 No. 26 s 5
 sub 1974 No. 60 s 3
 om 1978 No. 62 s 14(b)
 pres s 40 ins 1999 No. 32 s 7

Constitution of Regional Coordination Councils

s 40A ins 1974 No. 60 s 4
 om 1978 No. 62 s 14(b)

Appointment of members of Regional Coordination Councils

s 40B ins 1974 No. 60 s 5
 om 1978 No. 62 s 14(b)

Concurrence agencies for conditions of development approvals

s 41 prev s 41 amd 1973 No. 26 s 6; 1974 No. 60 s 6
 om 1978 No. 62 s 14(b)
 pres s 41 ins 2001 No. 46 s 41 (retro)

Changing or cancelling a condition of a development approval

s 42 prev s 42 amd 1974 No. 60 s 7
 om 1978 No. 62 s 14(b)
 pres s 42 ins 2001 No. 46 s 41 (retro)
 amd 2004 No. 53 s 2 sch

Application of Coordinator-General's change report to IDAS

s 42A prev s 42A ins 1974 No. 60 s 8
 om 1978 No. 62 s 14(b)
 pres s 42A ins 2005 No. 57 s 30

Subdivision 2—Community infrastructure

sdiv hdg ins 2001 No. 46 s 41

Application of Coordinator-General's report to designation

s 43 prev s 43 amd 1974 No. 60 s 9
 om 1978 No. 62 s 14(b)
 pres s 43 ins 2001 No. 46 s 41

Division 5—Relationship with Mineral Resources Act

div hdg ins 1999 No. 32 s 7
 sub 2001 No. 46 s 42

Application of div 5

s 44 prev s 44 amd 1974 No. 60 s 10
 om 1978 No. 62 s 14(b)
 pres s 44 ins 1999 No. 32 s 7
 sub 2001 No. 46 s 42

Application of Coordinator-General's report to proposed mining lease

s 45 prev s 45 om 1978 No. 62 s 14(b)
pres s 45 ins 1999 No. 32 s 7
sub 2001 No. 46 s 42
amd 2005 No. 57 s 31

Coordinator-General's conditions override other conditions

s 46 prev s 46 om 1978 No. 62 s 14(b)
pres s 46 ins 1999 No. 32 s 7
sub 2001 No. 46 s 42

Paramourcy of native title issues decision conditions

s 47 prev s 47 om 1978 No. 62 s 14(b)
pres s 47 ins 1999 No. 32 s 7
sub 2001 No. 46 s 42

Paramourcy of conditions determined or declared under Native Title Act 1993 (Cwlth)

s 47A prev s 47A ins 1973 No. 26 s 7
om 1978 No. 62 s 14(b)
pres s 47A ins 2005 No. 57 s 32

Division 6—Relationship with Environmental Protection Act

div hdg ins 2001 No. 46 s 42
amd 2005 No. 57 s 33

Subdivision 1—Relationship for non-code compliant environmental authority (chapter 5A activities)

sdiv hdg ins 2005 No. 57 s 34
amd 2009 No. 3 s 594

Application of sdiv 1

s 47B ins 2005 No. 57 s 34
amd 2009 No. 3 s 595

Application of Coordinator-General's report to environmental authority

s 47C ins 2005 No. 57 s 34

Subdivision 2—Relationship for environmental authority (mining lease)

sdiv hdg ins 2005 No. 57 s 34

Application of sdiv 2

prov hdg amd 2005 No. 57 s 35(1)
s 48 ins 1999 No. 32 s 7
sub 2001 No. 46 s 42
amd 2005 No. 57 s 35(2)

Application of Coordinator-General's report to environmental authority (mining lease)

s 49 ins 2001 No. 46 s 42
amd 2005 No. 57 s 36

Division 6A—Relationship with Petroleum and Gas (Production and Safety) Act 2004

div 6A (ss 49A–49C) ins 2005 No. 57 s 37

Division 6B—Relationship with Greenhouse Gas Storage Act 2009

div 6B (ss 49D–49E) ins 2009 No. 3 s 596

Division 7—Relationship with other legislation

div hdg ins 1999 No. 32 s 7

Application of div 7

s 50 (prev s 29W) ins 1999 No. 32 s 7
amd 2001 No. 46 s 43(1)
renum 2001 No. 46 s 43(2)
amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 38

EIS under this part is EIS for other Act

s 51 ins 1999 No. 32 s 7

Application of Coordinator-General's report to other approval process

s 52 ins 1999 No. 32 s 7
amd 2001 No. 46 s 44; 2005 No. 57 s 39

Person approving project to be given copy of Coordinator-General's report

s 53 ins 1999 No. 32 s 7

Coordinator-General's report must be taken into consideration

s 54 ins 1999 No. 32 s 7
amd 2001 No. 46 s 45

Division 8—Application of Coordinator-General's report if no relevant approval

div hdg ins 2005 No. 57 s 39A

Application of div 8

s 54A ins 2005 No. 57 s 39A

Report may impose conditions

s 54B ins 2005 No. 57 s 39A

Provision for what conditions may be imposed

s 54C ins 2005 No. 57 s 39A

Effect of imposed conditions

s 54D ins 2005 No. 57 s 39A
amd 2008 No. 52 s 98 sch 2

Imposed conditions override conditions of other approvals

s 54E ins 2005 No. 57 s 39A

Provision about enforcement orders under the Integrated Planning Act

s 54F ins 2005 No. 57 s 39A

Declaration-making powers

s 54G ins 2005 No. 57 s 39A

PART 5—PRESCRIBED DEVELOPMENT

pt hdg prev pt hdg om 1978 No. 62 s 14(a)
pres pt hdg ins 1981 No. 18 s 4

Division 1—Declaration of prescribed development

div hdg ins 1981 No. 18 s 4

Investigation of developments of State significance

s 55 ins 1981 No. 18 s 4

Effect of investigation on local bodies

s 56 ins 1981 No. 18 s 4

Declaration of prescribed developments

s 57 ins 1981 No. 18 s 4
amd 2001 No. 46 s 30(2) sch 2

Notification of decision

s 58 ins 1981 No. 18 s 4

Division 2—Infrastructure coordination plans

div hdg ins 1981 No. 18 s 4

Preparation of plans

s 59 ins 1981 No. 18 s 4

Approval of infrastructure coordination plan

s 60 ins 1981 No. 18 s 4

Variation of approved plan

s 61 ins 1981 No. 18 s 4
amd 2001 No. 46 s 30(2) sch 2

Effect of approved plan

s 62 ins 1981 No. 18 s 4

Local bodies may make and perform agreements etc.

s 63 ins 1981 No. 18 s 4

Agreements to be furnished to Coordinator-General

s 64 ins 1981 No. 18 s 4

Approval of agreements

s 65 ins 1981 No. 18 s 4

Variation of approved agreement

s 66 ins 1981 No. 18 s 4

Division 3—Applications relating to prescribed development

div hdg ins 1981 No. 18 s 4

Referral of applications

s 67 ins 1981 No. 18 s 4

Remission of applications

s 68 ins 1981 No. 18 s 4

Applications remaining with Coordinator-General

s 69 ins 1981 No. 18 s 4

Advertisement calling for submissions

s 70 ins 1981 No. 18 s 4
amd 2001 No. 46 s 30(2) sch 2

Determination of application

s 71 ins 1981 No. 18 s 4
amd 2001 No. 46 s 30(2) sch 2

Effect of determination

s 72 ins 1981 No. 18 s 4

Effect of reference on time limitations

s 73 ins 1981 No. 18 s 4

Prescribed development to await approval

s 74 ins 1981 No. 18 s 4

Withdrawal of applications

s 75 ins 1981 No. 18 s 4

Division 4—Information concerning development

div hdg ins 1981 No. 18 s 4

Coordinator-General may obtain information

s 76 ins 1981 No. 18 s 4

PART 5A—PRESCRIBED PROJECTS

pt hdg ins 2006 No. 54 s 7

Division 1—Preliminary

div 1 (ss 76A–76D) ins 2006 No. 54 s 7

Division 2—Declaration of prescribed projects, duty to cooperate and requesting further information

div 2 (ss 76E–76H) ins 2006 No. 54 s 7

Division 3—Notices about prescribed projects

div hdg ins 2006 No. 54 s 7

Subdivision 1—Progression notice

sdiv 1 (s 76I) ins 2006 No. 54 s 7

Subdivision 2—Notice to decide

sdiv 2 (s 76J) ins 2006 No. 54 s 7

Subdivision 3—Step in notice

sdiv 3 (ss 76K–76R) ins 2006 No. 54 s 7

Division 4—Voluntary environmental agreements

div 4 (ss 76S–76U) ins 2006 No. 54 s 7

Division 5—Other matters

div 5 (ss 76V–76W) ins 2006 No. 54 s 7

PART 6—PLANNED DEVELOPMENT

Declaration of State development areas, variation and termination thereof

s 77 sub 1973 No. 26 s 8
amd 2001 No. 46 s 30(2) sch 2; 2006 No. 54 s 8

Procedure in relation to State development areas

s 78 sub 1973 No. 26 s 8

Approval, implementation, and variation of development scheme

s 80 amd 2001 No. 46 s 30(2) sch 2

Acquisition of land in State development area

s 82 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 40; 2006 No. 54 s 9

Disposal of land in State development area

s 83 amd 2001 No. 46 s 30(2) sch 2

Use of land under approved development scheme

prov hdg amd 1999 No. 32 s 8(1)

s 84 amd 1999 No. 32 s 8(2)–(3); 2005 No. 57 s 41

When approval for the use of land in State development area lapses

s 84A ins 2005 No. 57 s 42

Continued existing lawful use not an offence

s 85 prev s 85 om 2001 No. 46 s 30(2) sch 2
pres s 85 ins 1999 No. 32 s 9

Division 2—Compensation

div hdg ins 1999 No. 32 s 9

Subdivision 1—Preliminary

sdiv hdg ins 1999 No. 32 s 9

Definition for div 2

s 86 ins 1999 No. 32 s 9

Subdivision 2—Entitlement to compensation

sdiv hdg ins 1999 No. 32 s 9

Compensation

s 87 ins 1999 No. 32 s 9
amd 2001 No. 46 s 30(2) sch 2

Limitations on compensation under s 87

s 88 ins 1999 No. 32 s 9

Subdivision 3—Claims for, and payment of, compensation

sdiv hdg ins 1999 No. 32 s 9

Time limit for claiming compensation

s 89 ins 1999 No. 32 s 9

Deciding claims for compensation

s 90 ins 1999 No. 32 s 9

Notification of decision

s 91 ins 1999 No. 32 s 9

Calculating reasonable compensation involving changes

s 92 ins 1999 No. 32 s 9

When compensation is payable

s 93 ins 1999 No. 32 s 9

Payment of compensation to be recorded on title

s 94 ins 1999 No. 32 s 9

Subdivision 4—Appeals

sdiv hdg ins 1999 No. 32 s 9

Appeals against decisions on compensation claims

s 95 ins 1999 No. 32 s 9

How appeals are started

prov hdg amd 1979 No. 26 s 5(a)

s 96 prev s 96 amd 1979 No. 26 s 5(b)–(c)

om 2001 No. 46 s 50

pres s 96 ins 1999 No. 32 s 9

Hearing procedures

prov hdg amd 1979 No. 26 s 6(a)

s 97 prev s 97 amd 1973 No. 26 s 13; 1978 No. 62 s 25; 1979 No. 26 s 6(b)–(c)

om 2001 No. 46 s 50

pres s 97 ins 1999 No. 32 s 9

Appeal decision

s 98 prev s 98 amd 1973 No. 26 s 14

om 2001 No. 46 s 50

pres s 98 ins 1999 No. 32 s 9

Division 3—Undertaking of works by local bodies or approved persons

div hdg amd 2005 No. 57 s 43

Recommendation of certain works

prov hdg amd 1979 No. 26 s 7(a)

s 99 prev s 99 amd 1973 No. 26 s 15; 1979 No. 26 s 7(b); 1999 No. 69 s 7 sch

om 2001 No. 46 s 50

pres s 99 amd 2005 No. 57 s 44

Approval of certain works

s 100 prev s 100 amd 1979 No. 26 s 8

om 2001 No. 46 s 50

pres s 100 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 45

Time limited for works

s 101 prev s 101 amd 1973 No. 26 s 16; 1979 No. 26 s 9

om 2001 No. 46 s 50

pres s 101 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 46

Endnotes

Regulations relating to loans etc.

s 101A ins 1979 No. 26 s 10
om 2001 No. 46 s 50

Direction to be complied with

prov hdg amd 2001 No. 46 s 30(2) sch 2
s 102 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 47

Borrowing of money for works

s 103 amd 2001 No. 46 s 30(2) sch 2

Procedure on local body's or approved person's default

prov hdg amd 2005 No. 57 s 48(1)
s 104 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 48(2)

Borrowing to facilitate remedy of default

s 105 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 49

Liability for costs of work to remedy default

s 106 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 50

Power to order postponement of works

s 107 amd 2005 No. 57 s 51

Recommendation of particular works

prov hdg amd 2006 No. 54 s 2 sch
s 108 amd 2005 No. 57 s 52

Direction about particular works

prov hdg amd 2006 No. 54 s 10(1)
s 109 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 53; 2006 No. 54 s 10(2)

Undertaking particular works

prov hdg sub 2006 No. 54 s 11(1)
110 prev s 110 amd 1978 No. 62 s 26(a)
om 1996 No. 37 s 147 sch 2
pres s 110 amd 2001 No. 46 s 30(2) sch 2; 2005 No. 57 s 54
amd 2006 No. 54 s 11(2)–(5)

Delegation of authority of Coordinator-General

s 111 amd 2001 No. 46 ss 46, 30(2) sch 2; 2005 No. 57 s 55; 2006 No. 54 s 12; 2008 No. 75 s 111

Project boards

s 113 prev s 113 om 1974 No. 75 s 4 sch
pres s 113 amd 1973 No. 26 s 9; 1974 No. 60 s 11; 1978 No. 62 s 15; 1999 No. 32 s 10

Chairperson and deputy chairperson

s 114 amd 1978 No. 62 s 16

Term of appointment of member of board

s 115 amd 1973 No. 26 s 10

Termination of membership of board

- s 116** prev s 116 amd 1981 No. 18 s 6
om 2001 s 30(2) sch 2
pres s 116 amd 1974 No. 60 s 12; 1978 No. 62 s 17; 2000 No. 16 s 590 sch 1
pt 2; 2001 No. 46 s 30(2) sch 2

Casual vacancies

- s 117** amd 1974 No. 60 s 13; 1978 No. 62 s 18

Meetings of boards

- prov hdg** amd 1978 No. 62 s 26(b)
s 118 prev s 118 amd 1978 No. 62 s 26(a)
om 1996 No. 37 s 147 sch 2
pres s 118 amd 1974 No. 60 s 14; 1978 No. 62 s 19

Disclosure of interests

- s 119** ins 1999 No. 32 s 11
amd 2002 No. 74 s 90 sch

Fees of members of boards

- s 120** amd 1978 No. 62 s 20

Status, powers etc. of project board

- s 122** prev s 122 om 1978 No. 62 s 28
pres s 122 amd 1973 No. 26 s 11; 2001 No. 46 s 30(2) sch 2

Numbering and renumbering of Act

- s 122A** ins 2001 No. 46 s 53
om R3 (see RA s 37)

Audit of project board's accounts

- s 123** ins 1974 No. 60 s 15
sub 1978 No. 62 s 21

Project board is a statutory body

- s 124** ins 2001 No. 46 s 47

Power of Coordinator-General to take land

- s 125** amd 1999 No. 32 s 12; 2001 No. 46 ss 48, 30(2) sch 2; 2005 No. 57 s 56

Power of Coordinator-General to take public utility easement

- s 125A** ins 2005 No. 57 s 57

Ensuring reasonable steps are taken to acquire land by agreement

- s 126** ins 1999 No. 32 s 13
amd 2005 No. 57 s 58

Relationship with native title legislation

- s 127** ins 1999 No. 32 s 13
amd 2005 No. 57 s 59; 2007 No. 39 s 41 sch

Vesting of land taken

- s 128** amd 2001 No. 46 s 30(2) sch 2; 2006 No. 54 s 2 sch

Endnotes

Power to use, lease or dispose of land

s 129 ins 1999 No. 32 s 14

Payment of costs of taking land and compensation

s 130 amd 2006 No. 54 s 2 sch

Power of Governor in Council to alienate land to Coordinator-General

s 131 amd 2001 No. 46 s 30(2) sch 2

Disposal of land not required for purpose of acquisition

s 132 amd 2001 No. 46 s 30(2) sch 2; 2006 No. 54 s 2 sch

Proof of requirement of land

s 133 amd 2006 No. 54 s 2 sch

Power of Coordinator-General to negotiate transfer of works undertaken by the Coordinator-General

s 134 amd 1978 No. 62 s 22; 2001 No. 46 ss 49, 30(2) sch 2

Undertaking private works

s 135 amd 2001 No. 46 s 30(2) sch 2

Powers in respect of land for purposes of works

s 136 amd 2001 No. 46 s 30(2) sch 2

Offences of interference and wilful obstruction

s 137 amd 1973 No. 26 s 12; 2001 No. 46 s 30(2) sch 2

Powers in respect of water for purposes of works

s 138 amd 2000 No. 34 s 1145 sch 3; 2001 No. 46 s 30(2) sch 2; 2005 No. 42 s 52 sch 1

Compensation for exercise of power under ss 136 and 138

s 139 amd 2001 No. 46 s 30(2) sch 2

Powers in respect of particular works on foreshore and under waters

prov hdg amd 2006 No. 54 s 13(1)

s 140 amd 1978 No. 62 s 23; 2001 No. 46 s 30(2) sch 2; 2006 No. 54 s 13(2)–(3)

Division 7—Investigating potential infrastructure facility

div hdg ins 1999 No. 32 s 15

Purpose of div 7

s 141 ins 1999 No. 32 s 15

Definitions for div 7

s 142 ins 1999 No. 32 s 15

How to apply for investigator's authority

s 143 ins 1999 No. 32 s 15

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s 144 ins 1999 No. 32 s 15

Granting authority

s 145 ins 1999 No. 32 s 15

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s 146 ins 1999 No. 32 s 15

What investigator must do before land is entered for the first time

s 147 ins 1999 No. 32 s 15

Investigator to issue associated person with identification

s 148 ins 1999 No. 32 s 15

Pretending to be an investigator etc.

s 149 ins 1999 No. 32 s 15

Investigator to take care in acting under authority

s 150 ins 1999 No. 32 s 15

Rectification of damage by investigator

s 151 ins 1999 No. 32 s 15

Compensation payable by investigator

s 152 ins 1999 No. 32 s 15

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s 153 ins 1999 No. 32 s 15

Division 8—Easements for critical infrastructure projects

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Definitions for div 8

s 153A ins 2006 No. 54 s 13A

Registration of critical infrastructure easement

s 153B ins 2006 No. 54 s 13A

Terms of easement

s 153C ins 2006 No. 54 s 13A

Effect of registration of easement

s 153D ins 2006 No. 54 s 13A

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s 153E ins 2006 No. 54 s 13A

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s 153F ins 2006 No. 54 s 13A

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s 153G ins 2006 No. 54 s 13A

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s 153H ins 2006 No. 54 s 13A

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s 153I ins 2006 No. 54 s 13A

Delegation of Minister's functions under div 8

s 153J ins 2007 No. 58 s 113

Expenses of works

s 154 amd 2001 No. 46 s 30(2) sch 2

The Coordinator-General is a statutory body

prov hdg amd 1979 No. 26 s 4(a)

s 157 amd 1978 No. 62 s 24; 1979 No. 26 s 4(b)–(g)
sub 2001 No. 46 s 50

PART 7A—ENFORCEMENT AND GENERAL OFFENCES

pt hdg ins 2008 No. 75 s 112

Division 1—Enforcement notices

div hdg ins 2008 No. 75 s 112

Subdivision 1—Giving enforcement notice

sdiv 1 (ss 157A–157C) ins 2008 No. 75 s 112

Subdivision 2—Appeals

sdiv 2 (ss 157D–157E) ins 2008 No. 75 s 112

Subdivision 3—Effects of enforcement notice

sdiv 3 (ss 157F–157H) ins 2008 No. 75 s 112

Division 2—Enforcement orders

div 2 (ss 157I–157N) ins 2008 No. 75 s 112

Division 3—General offences

div 3 (ss 157O–157P) ins 2008 No. 75 s 112

Division 4—Proceedings for offences

div 4 (ss 157Q–157R) ins 2008 No. 75 s 112

PART 8—MISCELLANEOUS PROVISIONS

Power to contract

s 158 amd 1981 No. 18 s 5; 1996 No. 37 s 147 sch 2

Power as to roads

s 161 amd 2001 No. 46 s 30(2) sch 2

Power to exclude or divert traffic

s 162 amd 2001 No. 46 s 30(2) sch 2

Power to encroach upon roads and lands for purposes of works

s 164 amd 2001 No. 46 s 30(2) sch 2

Duty to take care at worksites and power to prevent traffic

s 165 amd 2001 No. 46 s 30(2) sch 2

Service on Coordinator-General

s 166 amd 1978 No. 62 s 26(a); 1996 No. 37 s 147 sch 2

Limited liability of Coordinator-General for injury to person or property

s 167 amd 1974 No. 75 s 4 sch; 2001 No. 7 s 302 sch 2; 2001 No. 46 s 30(2) sch 2

Mode of prosecution

s 170 om 2008 No. 75 s 113

Publication of document or information by Coordinator-General

s 171 sub 2001 No. 46 s 51

Regulation-making power

prov hdg sub 2001 No. 46 s 30(2) sch 2

s 173 amd 1973 No. 26 s 17; 1978 No. 62 s 27; 1979 No. 26 s 11; 2001 No. 46 ss 52, 30(2) sch 2

Coordinator-General must make guidelines

s 174 ins 1999 No. 32 s 16
amd 2005 No. 57 s 60

Annual report

s 175 ins 1981 No. 18 s 7

Division 4—Other miscellaneous provisions

div hdg ins 2005 No. 57 s 61

EIS must not, under particular other Acts, be required for PNG pipeline project

s 175A ins 2005 No. 57 s 61
amd 2009 No. 3 s 597

PART 9—TRANSITIONAL PROVISIONS

pt hdg ins 1999 No. 32 s 17
sub 2005 No. 57 s 62

Division 1—Transitional provisions for State Development and Public Works Organisation Amendment Act 1999

div hdg ins 2005 No. 57 s 62

Studies being prepared are taken to be EISs for this part

s 176 ins 1999 No. 32 s 17
amd 2001 No. 46 ss 54, 30(2) sch 2; 2004 No. 53 s 2 sch

Division 2—Transitional provisions for State Development and Public Works Organisation and Other Legislation Amendment Act 2005

div 2 (ss 177–178) ins 2005 No. 57 s 63

Division 3—Transitional provisions for amendments under Revenue and Other Legislation Amendment Act (No. 2) 2008

div 3 (ss 179–182) ins 2008 No. 75 s 114

SCHEDULE 1—FEES FOR PART 4

ins 2008 No. 75 s 114

SCHEDULE 2—DICTIONARY

sch hdg amd 2008 No. 75 s 115(2)

sch 2 sub 2001 No. 46 s 30(2) sch 2

Note—definitions for this Act were originally located in prev s 2.

def “**advice agency**” ins 2006 No. 54 s 14(2)

def “**applicable code**” ins 2005 No. 42 s 52 sch 1

def “**applicant**” ins 2006 No. 54 s 14(2)

def “**application**” ins 1981 No. 18 s 3(a)

reloc 2001 No. 46 s 31(4)

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- def “**appropriate register**” ins 2006 No. 54 s 14(2)
- def “**approval**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def “**approved development scheme**” reloc 2001 No. 46 s 31(4)
- def “**approved person**” ins 2005 No. 57 s 64(2)
- def “**approved plan**” ins 1981 No. 18 s 3(b)
reloc 2001 No. 46 s 31(4)
- def “**assessment manager**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def “**authorised works**” reloc 2001 No. 46 s 31(4)
- def “**body of water**” reloc 2001 No. 46 s 31(4)
- def “**concurrency agency**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
sub 2006 No. 54 s 14
- def “**Coordinator-General**” reloc 2001 No. 46 s 31(4)
- def “**Coordinator-General’s change report**” ins 2005 No. 57 s 64(2)
- def “**Coordinator-General’s report**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def “**Council**” om 1978 No. 62 s 5(a)
- def “**critical infrastructure easement**” ins 2006 No. 54 s 14(2)
- def “**critical infrastructure project**” ins 2006 No. 54 s 14(2)
- def “**decision maker**” ins 2006 No. 54 s 14(2)
- def “**declaration**” ins 2006 No. 54 s 14(2)
- def “**development**” amd 1978 No. 62 s 5(b)
reloc 2001 No. 46 s 31(4)
- def “**development approval**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
sub 2006 No. 54 s 14
- def “**Director (Administration and Finance)**” ins 1978 No. 62 s 5(c)
om 1996 No. 37 s 147 sch 2
- def “**easement holder**” ins 2006 No. 54 s 14(2)
- def “**ecology**” om 1978 No. 62 s 5(a)
- def “**EIS**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
sub 2005 No. 57 s 64(1)–(2)
- def “**enforceable condition**” ins 2008 No. 75 s 115(1)
- def “**enforcement notice**” ins 2008 No. 75 s 115(1)
- def “**enforcement order**” ins 2008 No. 75 s 115(1)
- def “**environment**” om 1978 No. 62 s 5(a)
ins 1999 No. 32 s 3(3)
reloc 2001 No. 46 s 31(4)
- def “**environmental authority (mining lease)**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def “**environmental effects**” ins 1978 No. 62 s 5(c)
sub 1999 No. 32 s 3(2)–(3)
reloc 2001 No. 46 s 31(4)
- def “**Environmental Protection Act**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)

- def **“EPA Minister”** ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def **“foreshore”** reloc 2001 No. 46 s 31(4)
- def **“IDAS”** ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
sub 2006 No. 54 s 14
- def **“imposed condition”** ins 2005 No. 57 s 64(2)
- def **“infrastructure”** ins 1981 No. 18 s 3(c)
reloc 2001 No. 46 s 31(4)
- def **“infrastructure coordination plan”** ins 1981 No. 18 s 3(c)
reloc 2001 No. 46 s 31(4)
- def **“Integrated Planning Act”** ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def **“land”** reloc 2001 No. 46 s 31(4)
- def **“local authority”** om R1 (see RA s 39)
- def **“local body”** amd 1978 No. 62 s 5(d)
sub 2001 No. 46 s 31(2)–(3)
reloc 2001 No. 46 s 31(4)
amd 2006 No. 31 s 21
- def **“material change of use”** ins 2005 No. 42 s 52 sch 1
- def **“Mineral Resources Act”** ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def **“Minister”** amd 1978 No. 62 s 5(e)
om R1 (see RA s 39)
- def **“MRA Minister”** ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def **“nominated entity”** ins 2005 No. 57 s 64(2)
- def **“notice to decide”** ins 2006 No. 54 s 14(2)
- def **“Planning and Environment Court”** ins 2008 No. 75 s 115(1)
- def **“pollution”** om 1978 No. 62 s 5(a)
- def **“prescribed decision”** ins 2006 No. 54 s 14(2)
- def **“prescribed development”** ins 1981 No. 18 s 3(d)
reloc 2001 No. 46 s 31(4)
- def **“prescribed process”** ins 2006 No. 54 s 14(2)
- def **“prescribed project”** ins 2006 No. 54 s 14(2)
- def **“private works”** reloc 2001 No. 46 s 31(4)
amd 2005 No. 57 s 64(3)–(4)
- def **“progression notice”** ins 2006 No. 54 s 14(2)
- def **“properly made submission”** ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def **“proponent”** ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def **“recipient”** ins 2008 No. 75 s 115(1)
- def **“referral coordination”** ins 2006 No. 54 s 14(2)
- def **“region”** om 1978 No. 62 s 5(a)
- def **“registered owner”** ins 2006 No. 54 s 14(2)
- def **“registrar”** ins 2006 No. 54 s 14(2)
- def **“relevant law”** ins 2006 No. 54 s 14(2)

Endnotes

- def “**relevant local government**” ins 2005 No. 57 s 64(2)
- def “**relevant public utility easement**” ins 2006 No. 54 s 14(2)
- def “**secretary**” om 1978 No. 62 s 5(a)
- def “**significant project**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def “**State development area**” reloc 2001 No. 46 s 31(4)
- def “**step in notice**” ins 2006 No. 54 s 14(2)
- def “**submission period**” ins 2001 No. 46 s 31(3)
reloc 2001 No. 46 s 31(4)
- def “**undertake**” reloc 2001 No. 46 s 31(4)
- def “**voluntary environmental agreement**” ins 2006 No. 54 s 14(2)
- def “**waste**” om 1978 No. 62 s 5(a)
- def “**wild river area**” ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 85 sch
- def “**wild river declaration**” ins 2005 No. 42 s 52 sch 1
amd 2006 No. 59 s 85 sch
- def “**works**” reloc 2001 No. 46 s 31(4)

8 Table of renumbered provisions

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29P	40
29PA	41
29PB	42
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79A	129
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91	140
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9 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note in the text.

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