



# **Economic Development Act 2012**

**Current as at 27 May 2016**





## Queensland

# Economic Development Act 2012

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# Economic Development Act 2012

**An Act about economic development and development for community purposes**

## Chapter 1 Preliminary

### Part 1 Introduction

#### 1 Short title

This Act may be cited as the *Economic Development Act 2012*.

#### 2 Commencement

This Act, other than the following provisions, commences on a day to be fixed by proclamation—

- (a) chapter 8, parts 1 to 4;
- (b) the following provisions of chapter 8, part 6—
  - (i) sections 284, 285, 293, 295 to 299, 302, 306, 307, 311, 315, 316 and 318;
  - (ii) section 319, to the extent it inserts section 192;
- (c) chapter 8, parts 7 and 8;
- (d) the following provisions of schedule 2—
  - (i) amendment of the *Disaster Management Act 2003*;
  - (ii) amendment of the *Environmental Protection Act 1994*;

- (iii) amendment of the *State Development and Public Works Organisation Act 1971*, amendments 1 to 8, 14 to 18 and 24 to 30.

### **3 Main purpose of Act**

The main purpose of this Act is to facilitate economic development, and development for community purposes, in the State.

### **4 How main purpose is primarily achieved**

The main purpose of this Act is achieved primarily by—

- (a) establishing MEDQ to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in the State; and
- (b) providing for a streamlined planning and development framework for particular parts of the State (declared as priority development areas under this Act) to facilitate economic development, and development for community purposes, in or for the parts.

### **5 Act binds all persons**

- (1) This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

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## Part 2 Interpretation

### 6 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

### 7 Application of provisions

- (1) This section applies if a provision of this Act applies to any of the following (the *applied law*) for a purpose—
  - (a) another provision of this Act;
  - (b) another law;
  - (c) a provision of another law.
- (2) The applied law and any definition relevant to it apply with necessary changes.
- (3) Subsection (2) is not limited merely because a provision states how the applied law is to apply.

## Chapter 2 Minister for Economic Development Queensland

### Part 1 Establishment

#### 8 Establishment of Minister for Economic Development Queensland

- (1) A corporation sole constituted by the Minister is established under the name Minister for Economic Development Queensland (*MEDQ*).
- (2) The corporation as established under that name—

- (a) has perpetual succession and a seal; and
- (b) may sue and be sued in its corporate name.

## **9 MEDQ represents the State**

- (1) MEDQ represents the State.
- (2) Without limiting subsection (1), MEDQ has all the State's privileges and powers.

## **10 Legal capacity**

- (1) MEDQ has all the powers of an individual and may, for example—
  - (a) enter into contracts, infrastructure agreements and other agreements; and
  - (b) deal in land or other property; and
  - (c) appoint agents and attorneys; and
  - (d) engage consultants; and
  - (e) establish funds and accounts with any financial institution in Australia; and
  - (f) fix charges, and other terms, for the performance of a function, or exercise of a power, under this Act; and
  - (g) do anything necessary or convenient to be done in the performance of its functions, or exercise of its powers, under this or another Act.
- (2) MEDQ also has the powers conferred on it by this or another Act.
- (3) In performing its functions, MEDQ may act alone or in conjunction with public sector units, local governments, agencies or instrumentalities of the Commonwealth and other persons.



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## 11 Application of other Acts

- (1) MEDQ is a part of the department for the purposes of the *Financial Accountability Act 2009*.
- (2) MEDQ is—
  - (a) a unit of public administration; and
  - (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (3) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which MEDQ's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## 12 MEDQ declared to be excluded matter

MEDQ is declared to be an excluded matter for the Corporations Act, section 5F, in relation to all of the Corporations legislation.

# Part 2 Functions

## 13 MEDQ's functions

- (1) MEDQ's main function is to give effect to the main purpose of this Act.
- (2) MEDQ's other functions, for facilitating economic development and development for community purposes, include—
  - (a) dealing in land or other property; and
  - (b) coordinating the provision of, or providing, infrastructure and other services; and
  - (c) planning for, and developing and managing land in or for, priority development areas; and

- (d) deciding PDA development applications under this Act.
- (3) In planning for, or developing land in, priority development areas, MEDQ must consult with each relevant local government.

*Note—*

See also section 58 in relation to MEDQ consulting with relevant local governments when preparing a development scheme for a priority development area.

## **Part 3                      Matters about dealing in land or    other property, or the provision    of infrastructure**

### **Division 1                      General**

#### **14                      Purpose of pt 3**

- (1) This part provides for particular powers and other matters for achieving MEDQ's functions mentioned in section 13(2)(a) and (b).
- (2) This part does not limit MEDQ's powers under this or another Act.

#### **15                      MEDQ to act commercially**

MEDQ must, to the extent practicable, carry out its functions mentioned in section 13(2)(a) and (b) on a commercial basis.

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## Division 2                      Dealing in land or other property

### 16        What power to deal in land or other property includes

- (1) For this Act, MEDQ's power to deal in land or other property includes a power to deal in—
  - (a) land or other property; or
  - (b) an interest in land or other property.
- (2) Also, for this Act, MEDQ's power to deal in land includes a power to deal in land and improvements on land.

### 17        Dealing in land or other property generally

Without limiting section 13(2)(a), MEDQ may—

- (a) acquire land or other property for proposed development; or
- (b) develop land, including by providing or contributing to the provision of infrastructure on the land, to facilitate the use of the land for economic development or development for community purposes; or
- (c) dispose of, lease, license the use or occupation of, or sublease land or other property held by MEDQ to another entity for development by the entity.

### 18        Selling surplus property

- (1) This section applies if MEDQ holds land or other property (*surplus property*) that it does not require, or no longer requires, for carrying out its functions under this Act.
- (2) MEDQ may sell the surplus property at its market value—
  - (a) by public tender or auction; or
  - (b) by private treaty; or
  - (c) to a Commonwealth or State entity, or a local government, in priority to all other entities; or

- (d) in any other way prescribed under a regulation.
- (3) In this section—
  - Commonwealth or State entity*** means—
    - (a) a department of the Government of the Commonwealth or the State; or
    - (b) a statutory body constituted under an Act of the Commonwealth or the State.

## 19 Conditional disposal of land or other property

- (1) MEDQ may impose a condition or restriction on the disposal of land or other property to an entity (a ***transferee***) by MEDQ.
- (2) Without limiting subsection (1), MEDQ and a transferee may agree that the transferee—
  - (a) must make stated improvements to the land or property; or
  - (b) must undertake a stated activity, within a stated period, in relation to the land or property; or
  - (c) is subject to stated restrictions on the transfer of or dealing with the land or property.
- (3) An agreement under subsection (2) may provide for remedies against, and the power to impose sanctions on, the transferee relating to the agreement.

## Division 3 Provision of infrastructure

### 20 Construction of roads

- (1) MEDQ may construct a road for achieving its functions mentioned in section 13(2)(a) and (b).
- (2) The Governor in Council may, by gazette notice, fix a day (the ***fixed day***) on and after which the *Local Government Act 2009* or the *City of Brisbane Act 2010* (the ***relevant Act***) applies to the road.

- 
- (3) Until the fixed day—
- (a) the relevant Act does not apply to the road; and
  - (b) MEDQ incurs a duty, obligation, liability or responsibility in relation to an act done or omission made in relation to the road if, and to the extent, a local government would incur the duty, obligation, liability or responsibility if the act had been done or omission had been made by the local government.
- (4) On and after the fixed day—
- (a) the relevant Act applies to the road as if the road had been constructed by the local government for the area in which the road is located; and
  - (b) MEDQ does not have any duty, obligation, liability or responsibility in relation to the road.

## **Division 4                      Financial arrangements**

### **21            Entering into financial arrangements**

- (1) MEDQ may—
- (a) lend money, or enter into other financial arrangements, as part of a dealing in land or other property, including, for example, by providing finance to a purchaser; and
  - (b) enter into instalment contracts or other deferred payment arrangements as a creditor.

*Example—*

MEDQ might construct a research facility for an entity and recover the costs of its construction by a lease of the facility to the entity.

- (2) MEDQ may exercise a power under subsection (1) only if MEDQ has considered a matter prescribed under a regulation about the exercise of the power.

- (3) MEDQ may take any form of security or charge over land or other property if MEDQ considers it appropriate for doing a thing under subsection (1).

## **22 Holding land or other property obtained as security**

- (1) This section applies if MEDQ acquires or otherwise becomes entitled to land or other property as security for, or in satisfaction, liquidation or discharge of, a debt owing to MEDQ.
- (2) MEDQ may hold the land or property until it can be advantageously disposed of.

## **Division 5 Other functions and powers**

### **23 Arrangements for facilitating economic development or development for community purposes**

- (1) To help a person establish and carry on, or expand, an economic or community undertaking, MEDQ may enter into arrangements to facilitate the grant of an appropriate lease under the *Land Act 1994* to the person for the undertaking.
- (2) In this section—

*economic or community undertaking* means an undertaking that facilitates or supports economic development or development for community purposes.

### **24 Research**

MEDQ may contribute to, or undertake, research about land or other property or infrastructure to give effect to the main purpose of this Act, including, for example, research directed at identifying—

- (a) recent market trends that may affect economic development, or development for community purposes, in the State; or

- 
- (b) opportunities for economic development, or development for community purposes, in the State; or
  - (c) community needs and expectations.

## Part 4 Economic Development Fund

### 25 Economic Development Fund

- (1) The Estates Construction Fund under the repealed ID Act is continued in existence under this Act and renamed as the Economic Development Fund (the *Fund*).
- (2) The Fund does not form part of the consolidated fund.

### 26 Payments of amounts into the Fund

- (1) The following amounts are payable into the Fund—
  - (a) amounts received by MEDQ for a dealing in land or other property under this Act;
  - (b) amounts received by MEDQ for a borrowing under the *Statutory Bodies Financial Arrangements Act 1982*, part 5;
  - (c) amounts received by MEDQ for an investment under the *Statutory Bodies Financial Arrangements Act 1982*, part 6;
  - (d) fees received by MEDQ for applications under chapter 3;
  - (e) special rates and charges received by MEDQ;
  - (f) infrastructure expenses recoupment charges received by MEDQ;
  - (g) any other amounts received by MEDQ in carrying out its functions or exercising its powers under this Act, including, for example, interest received in relation to—

- (i) a fund or bank account kept under this Act; or
  - (ii) a financial arrangement under section 21;
- (h) any amount appropriated by Parliament for the purposes of the Fund;
- (i) any amount paid into the Fund at the direction of or with the approval of the Minister and the Treasurer.
- (2) Subsection (3) applies if—
  - (a) MEDQ delegates a function or power under section 169; and
  - (b) for performing the function or exercising the power, the delegate receives an amount that, other than for subsection (3), would be payable into the Fund under subsection (1)(d), (e), (f) or (g); and
  - (c) the delegation provides that the delegate may retain all or part of the received amount.
- (3) Despite subsection (1), the amount that, under the delegation, may be retained is not payable into the Fund.

## **27 Payment of amounts from the Fund**

A payment of an amount from the Fund may be made for any of the following purposes—

- (a) paying expenses incurred by MEDQ for—
  - (i) a dealing in land or other property under this Act; or
  - (ii) the provision of infrastructure or other services under this Act; or
  - (iii) the administration or enforcement of this Act; or
  - (iv) performing another function, or exercising another power, under this Act;
- (b) paying fees or expenses related to administering the Fund or a fund or bank account kept under this Act;



- 
- (c) transferring an amount to a local government under section 127(1)(b);
  - (d) paying an amount the Minister and the Treasurer direct MEDQ, in writing, to pay into the consolidated fund.

## 28 Administration of the Fund

- (1) The Fund is to be administered by MEDQ.
- (2) Accounts for the Fund must be kept as part of the departmental accounts of the department.
- (3) However, amounts received for the Fund must be deposited in a departmental financial institution account of the department used only for amounts received for the Fund.
- (4) In this section—

*departmental accounts*, of a department, means the accounts of the department kept under the *Financial Accountability Act 2009*, section 69.

*departmental financial institution account*, of a department, means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

## Part 5 Staffing arrangements and identity cards

### 29 Staffing arrangements

- (1) MEDQ may arrange with the chief executive for the services of officers or employees of the department to be made available to MEDQ.
- (2) An officer or employee whose services are made available under subsection (1)—

[s 30]

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- (a) continues to be an officer or employee of the department; and
- (b) continues to be employed or otherwise engaged by the department on the same terms and conditions applying to the officer or employee before his or her services were made available; and
- (c) is, for the period the services are made available and for the carrying out of MEDQ's functions, taken to be a member of the staff of MEDQ.

### **30 Issue of identity card for particular employees and agents**

- (1) MEDQ must issue an identity card to each individual whom MEDQ authorises to enter premises under section 123.

*Note—*

Section 123 provides for the application of local government entry powers for MEDQ's functions and powers.

- (2) The identity card must—
- (a) contain a recent photo of the individual; and
  - (b) contain a copy of the individual's signature; and
  - (c) identify the individual as an individual who is authorised by MEDQ; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

### **31 Production or display of identity card**

- (1) In exercising a power under this Act in relation to another person, the individual must—
- (a) produce his or her identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

- (2) However, if it is not practicable to comply with subsection (1), the individual must produce the identity card for the person's inspection at the first reasonable opportunity.

### **32 Return of identity card**

If an individual ceases to be authorised as mentioned in section 30, the individual must return the individual's identity card to MEDQ within 20 business days after ceasing to be so authorised unless the individual has a reasonable excuse.

Maximum penalty—20 penalty units.

## **Chapter 3 Planning and development**

### **Part 1 Preliminary**

#### **33 Development and its types**

- (1) This section defines particular terms for this chapter.
- (2) ***Development*** is any of the following—
- (a) carrying out building work;
  - (b) carrying out plumbing work or drainage work;
  - (c) carrying out operational work;
  - (d) reconfiguring a lot;
  - (e) making a material change of use of premises.
- (3) ***PDA assessable development*** is—
- (a) development that a relevant development instrument for a priority development area provides is PDA assessable development, including PDA-associated development identified in the instrument; or

- (b) PDA-associated development declared for a priority development area under section 40C(1) and identified by MEDQ under that section to be PDA assessable development.
- (4) ***PDA self-assessable development*** is—
  - (a) development that a relevant development instrument for a priority development area provides is PDA self-assessable development, including PDA-associated development identified in the instrument; or
  - (b) PDA-associated development declared for a priority development area by MEDQ under section 40C(1) and identified by MEDQ under that section to be PDA self-assessable development.
- (5) Development in a priority development area, or PDA-associated development for a priority development area, other than PDA assessable development or PDA self-assessable development is ***PDA exempt development***.

## **Part 2**                      **Priority development areas**

### **Division 1**                      **Declaration of provisional priority development areas and provisional land use plans**

#### **34**                      **Declaration**

- (1) A regulation (a ***declaration regulation***) may declare a part of the State to be a provisional priority development area.
- (2) In making a declaration under subsection (1), regard must be had to—
  - (a) the main purpose of this Act; and
  - (b) without limiting paragraph (a)—

- 
- (i) any proposed development for land in the area; and
  - (ii) the economic and community benefit to the State that may be gained by the proposed development; and
  - (iii) the impact the Sustainable Planning Act may have on the delivery of the proposed development if that Act were to apply to development in the area.
- (3) Also, a declaration may be made under subsection (1) only if—
- (a) the type, scale, intensity and location of proposed development for land in the area does not compromise the implementation of any planning instrument applying to the area; and
  - (b) there is an overriding economic or community need to start the proposed development quickly.

### **35 Provisional land use plan required for provisional priority development area**

- (1) A declaration regulation must make a provisional land use plan regulating development in a provisional priority development area declared under it.
- (2) The provisional land use plan—
- (a) may provide for any matter mentioned in section 57(2)(a), (3) or (3A); and
  - (b) must not compromise the implementation of any planning instrument applying to the area; and
  - (c) must require public notice of each PDA development application that is for carrying out PDA assessable development that—
    - (i) is on land in the area or is identified in the plan as PDA-associated development for the area; and
    - (ii) is of a following kind—
      - (A) reconfiguring a lot;

(B) making a material change of use of premises.

*Note—*

See section 84 for the requirements about the public notification.

- (3) Subsection (2)(c) does not prevent the provisional land use plan from requiring public notice of PDA development applications for carrying out other PDA assessable development.

### **36 Tabling and inspection of documents adopted in declaration regulation**

- (1) This section applies if—
- (a) a declaration regulation makes a provisional land use plan for a provisional priority development area by adopting, applying or incorporating all or part of another document (the *adopted provisions*); and
  - (b) the adopted provisions are not part of, or attached to, the regulation.
- (2) The Minister must, when the regulation is tabled in the Legislative Assembly under the *Statutory Instruments Act 1992*, section 49, also table a copy of the adopted provisions.

*Note—*

MEDQ must keep a register of provisional land use plans, as amended from time to time, and publish them on the department's website. See section 172.

- (3) A failure to comply with this section does not invalidate or otherwise affect the regulation.

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## **Division 2**                      **Declaration of other priority development areas and interim land use plans**

### **37**            **Declaration**

- (1) A regulation (a *declaration regulation*) may declare a part of the State to be a priority development area.
- (2) In making a declaration under subsection (1), regard must be had to—
  - (a) the main purpose of this Act; and
  - (b) without limiting paragraph (a)—
    - (i) any proposed development for land in the area; and
    - (ii) the economic and community benefit to the State that may be gained by the proposed development; and
    - (iii) the impact the Sustainable Planning Act may have on the delivery of the proposed development if that Act were to apply to development in the area.

### **38**            **Interim land use plan required**

- (1) A declaration regulation must make an interim land use plan regulating development in the priority development area declared under it.
- (2) The interim land use plan may provide for any matter mentioned in section 57(2)(a), (3) or (3A).
- (3) The interim land use plan has effect until the earlier of the following—
  - (a) a development scheme for the area takes effect;
  - (b) the interim land use plan expires under section 39.

### **39 Expiry of interim land use plan**

- (1) An interim land use plan for a priority development area expires 12 months after it commences.
- (2) However, if a caretaker period occurs during the period mentioned in subsection (1), the period before the interim land use plan expires is extended by a further period equal to the caretaker period plus 20 business days.
- (3) A regulation may make a new interim land use plan for the priority development area.
- (4) Section 38(2) and (3) applies to the new interim land use plan.

### **40 Tabling and inspection of documents adopted in declaration regulation**

- (1) This section applies if—
  - (a) a declaration regulation makes an interim land use plan by adopting, applying or incorporating all or part of another document (the *adopted provisions*); and
  - (b) the adopted provisions are not part of, or attached to, the regulation.
- (2) The Minister must, when the regulation is tabled in the Legislative Assembly under the *Statutory Instruments Act 1992*, section 49, also table a copy of the adopted provisions.

*Note—*

MEDQ must keep a register of interim land use plans, as amended from time to time, and publish them on the department's website. See section 172.

- (3) A failure to comply with this section does not invalidate or otherwise affect the regulation.



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## **Division 2A                      Declaration of PDA-associated development by MEDQ**

### **40A      Application of division**

This division applies to development—

- (a) to be carried out other than entirely within a priority development area; and

*Example of development for paragraph (a)—*

A bridge is proposed to be constructed, extending from a landing point within the priority development area to a landing point outside the area. This division applies to development to be carried out for the part of the bridge that extends from the boundary of the priority development area to the landing point outside the area.

- (b) that is not identified as PDA-associated development in the relevant development instrument for the area.

*Note—*

A relevant development instrument may identify and regulate development as PDA-associated development—see, for example, section 57(3) and (3A).

### **40B      Consultation required before declaring PDA-associated development**

Before making a declaration under section 40C(1), MEDQ must—

- (a) consult, in the way it considers appropriate, with each local government in whose area the development is proposed to be located; and
- (b) make reasonable endeavours to consult, in the way MEDQ considers appropriate, with any government entity, GOC or other entity it considers will be likely to be affected by the declaration.

#### **40C Declaration of PDA-associated development**

- (1) MEDQ may, by instrument (a *declaration*), declare development to which this division applies (the *proposed development*) to be PDA-associated development for a priority development area.
- (2) A declaration may be made only if MEDQ is satisfied—
  - (a) the Sustainable Planning Act may have an adverse effect on the delivery of the proposed development if that Act were to apply to it; and
  - (b) 1 of the following applies—
    - (i) the proposed development provides development infrastructure for the priority development area to address the impacts of any development within the area, whether or not the development infrastructure also has another function or purpose;
    - (ii) the proposed development—
      - (A) promotes the proper and orderly planning, development and management of the priority development area in accordance with the relevant development instrument for the area; and
      - (B) has an economic or community benefit for the State or region in which the priority development area is located; and
      - (C) cannot reasonably be located or accommodated entirely within the priority development area;
    - (iii) the proposed development satisfies another requirement prescribed by regulation.
- (3) A declaration must not compromise the implementation of the relevant development instrument for the priority development area.
- (4) In making a declaration, MEDQ must decide—
  - (a) whether the PDA-associated development is—

- (i) PDA assessable development; or
  - (ii) PDA self-assessable development; or
  - (iii) PDA exempt development; and
- (b) if the development is PDA self-assessable development—the requirements for carrying out the development.

*Note—*

If the PDA-associated development is PDA assessable development, see section 84 for requirements about public notification of a PDA development application.

- (5) In this section—

*development infrastructure* see the Sustainable Planning Act, section 627.

#### **40D Content of declaration**

A declaration under section 40C(1) must include the following information—

- (a) the priority development area the development is for;
- (b) a description of the land on which the development is proposed to be located;
- (c) a description of the development, including plans and supporting documentation;
- (d) any other information prescribed by regulation.

#### **40E Notice of declaration**

As soon as practicable after declaring development to be PDA-associated development under section 40C(1), MEDQ must—

- (a) publish the declaration on the department's website; and
- (b) give a copy of the declaration to—
  - (i) each local government in whose area the development is to be located; and

- (ii) the owner of the land on which the development is proposed to be located; and
- (iii) each government entity or GOC consulted under section 40B before the making of the declaration.

## **Division 3                    Cessation of priority development areas**

### **Subdivision 1            Provisional priority development areas**

#### **41            Cessation of provisional priority development area**

- (1) A provisional priority development area ceases to be a provisional priority development area 3 years after its declaration.
- (2) Subject to subsection (4), before a provisional priority development area ceases under subsection (1), MEDQ may, by notice to the relevant local government—
  - (a) approve an amendment of the local government’s planning instruments prepared by the local government to provide for land in the provisional priority development area or any PDA-associated land for the provisional priority development area (the *planning instrument change*); or
  - (b) make an amendment of the local government’s planning instruments to provide for land in the provisional priority development area or any PDA-associated land for the provisional priority development area (also the *planning instrument change*).
- (3) On the giving of a notice under subsection (2), the planning instrument change is, for the Sustainable Planning Act, taken to have been made by the local government.

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- (4) The Sustainable Planning Act, section 117 does not apply for the making of the planning instrument change.
  - (5) Before making a planning instrument change under subsection (2)(b), MEDQ must—
    - (a) give the relevant local government the proposed planning instrument change; and
    - (b) invite it to, within 40 business days after it is given the proposed amendment, make submissions to MEDQ about the proposed planning instrument change; and
    - (c) consider any submissions made under paragraph (b).
  - (6) The planning instrument change takes effect at the same time as the provisional priority development area ceases under subsection (1).

## Subdivision 2      Priority development areas

### 42      Revocation or reduction of priority development area

- (1) This section applies if the Minister proposes to recommend to the Governor in Council the making of a regulation to amend or repeal a provision of a declaration regulation (the *PDA change*) so land in a priority development area will no longer be in a priority development area.
- (2) The recommendation for the PDA change may be made only if an instrument amending the relevant local government's planning instruments to provide for the land (the *planning instrument change*) is—
  - (a) proposed and dealt with under sections 42A to 42I, as applicable; and
  - (b) approved under section 42J(2).
- (3) Also, if there is PDA-associated development for the priority development area, the recommendation for the PDA change may be made only if—

- (a) the Minister has considered how the development should be dealt with; and
- (b) to the extent the Minister considers it appropriate, the development is provided for in the planning instrument change.

#### **42A Preparation of proposed planning instrument change**

- (1) MEDQ may decide to prepare the proposed instrument for the planning instrument change or ask the relevant local government to prepare it.
- (2) The entity that prepares the proposed instrument for the planning instrument change is the *proposer* of the planning instrument change.

#### **42B Consultation about proposed planning instrument change**

Before preparing the proposed instrument for the planning instrument change, the proposer must—

- (a) for a proposed instrument prepared by MEDQ—consult, in the way it considers appropriate, with the relevant local government; and
- (b) for a proposed instrument prepared by the relevant local government—consult with MEDQ; and
- (c) make reasonable endeavours to consult, in the way the proposer considers appropriate, with any of the following it considers will be likely to be affected by the proposed planning instrument change—
  - (i) a government entity or GOC;
  - (ii) another person or entity.

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**42C Approval of proposed planning instrument change by MEDQ**

- (1) This section applies if the proposed instrument for a planning instrument change is prepared by the relevant local government.
- (2) The local government must give the proposed instrument to MEDQ for approval.
- (3) MEDQ must decide to—
  - (a) approve the proposed instrument for the planning instrument change; or
  - (b) approve the instrument change subject to conditions decided by MEDQ; or
  - (c) refuse to approve the instrument.
- (4) If MEDQ approves the proposed instrument for the planning instrument change under subsection (3)(b), the relevant local government must amend the instrument to include the conditions.

**42D When notification requirements do not apply**

The notification requirements do not apply to the proposed instrument for the planning instrument change if MEDQ is satisfied—

- (a) the consultation about the instrument under section 42B has been adequate; and
- (b) the public interest would not be served by further consultation about the instrument.

**42E Public notification**

- (1) This section applies if—
  - (a) the proposed instrument for the planning instrument change is prepared; and

- (b) for a proposed instrument prepared by the relevant local government—MEDQ has approved the instrument under section 42C(3).
- (2) The proposer must—
  - (a) publish the proposed instrument for the planning instrument change on the proposer’s website; and
  - (b) in a gazette notice—
    - (i) state that the proposed instrument may be inspected on the proposer’s website; and
    - (ii) invite anyone to make submissions on the proposed instrument change within the period stated in the notice (the *submission period*); and
  - (c) publish a notice to the same effect as the gazette notice at least once in a newspaper circulating in the area of the relevant local government.
- (3) The submission period must end at least 30 business days after the date of the gazette notice.

#### **42F Submissions on proposed planning instrument change**

Anyone may make submissions to the proposer about the proposed instrument for the planning instrument change within the submission period.

#### **42G Consideration of submissions**

- (1) The proposer must consider the submissions received within the submission period.
- (2) Subsection (1) does not prevent the proposer from considering a submission made to it after the submission period ends.



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#### **42H Amendment of proposed planning instrument change**

- (1) After complying with section 42G, the proposer may amend the proposed instrument for the planning instrument change in a way it considers appropriate.
- (2) If the proposer considers the amendment significantly changes the proposed planning instrument change, it must re-comply with sections 42E(2) and (3) and 42G for the amended proposed instrument for the planning instrument change.

#### **42I Public response report**

- (1) This section applies if the proposer has complied with section 42G and, if relevant, section 42H.
- (2) The proposer must—
  - (a) prepare a report (the *public response report*) that—
    - (i) summarises the submissions considered by proposer; and
    - (ii) contains information about the merits of the submissions and the extent to which the proposed instrument for the planning instrument change was amended to reflect the submissions; and
    - (iii) contains details about any changes to the proposed instrument published under section 42E(2); and
  - (b) publish the report on the proposer's website.

#### **42J Approval of planning instrument change**

- (1) This section applies if, for a proposed instrument for a planning instrument change, the notification requirements—
  - (a) have been complied with; or
  - (b) do not apply under section 42D.
- (2) MEDQ must decide to—

- (a) approve the proposed instrument for the planning instrument change; or
  - (b) approve the proposed instrument subject to conditions decided by MEDQ; or
  - (c) refuse to approve the proposed instrument.
- (3) In making the decision under subsection (2), MEDQ must consider—
- (a) the main purpose of this Act; and
  - (b) for a proposed instrument for a planning instrument change prepared by the relevant local government to which the notification requirements apply—the public response report.
- (4) If MEDQ decides to approve the proposed instrument for the planning instrument change under subsection (2), it must, by notice to the relevant local government—
- (a) for a proposed instrument prepared by MEDQ—make the instrument for the planning instrument change, including any conditions decided under subsection (2)(b); or
  - (b) for a proposed instrument prepared by the relevant local government—approve the instrument for the planning instrument change.
- (5) If MEDQ approves an instrument for a planning instrument change prepared by the relevant local government subject to any conditions decided under subsection (2)(b), the local government must amend the instrument to include the conditions.

#### **42K Effect of planning instrument change**

- (1) On giving a notice under section 42J(4), the planning instrument change is, for the Sustainable Planning Act, taken to have been made by the relevant local government.
- (2) The Sustainable Planning Act, section 117 does not apply for making the planning instrument change.

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- (3) The planning instrument change takes effect at the same time as the PDA change.

#### **42L Notice of planning instrument change**

As soon as practicable after the planning instrument change takes effect—

- (a) MEDQ must publish the instrument for the planning instrument change on the department's website; and
- (b) the relevant local government must publish the instrument on its website; and
- (c) the proposer must publish, at least once in a newspaper circulating in the priority development area to which the instrument relates, a notice stating the instrument—
  - (i) has been approved; and
  - (ii) may be inspected on the proposer's website; and
- (d) the proposer must give each person who made a submission about the proposed instrument for the planning instrument change, received within the submission period, a notice stating that—
  - (i) the instrument has been approved; and
  - (ii) the public response report about the proposed instrument may be inspected on the proposer's website.

### **Subdivision 3 Other matters**

#### **42M Implied and uncommenced rights to use premises protected**

- (1) This section applies if—
- (a) a PDA development approval comes into effect; and
  - (b) immediately before the approval comes into effect, a material change of use, for a use implied by the

approval, was PDA self-assessable development or PDA exempt development; and

- (c) a planning instrument change is made before the use starts.
- (2) The use is taken to be a lawful use in existence immediately before the planning instrument change is made or taken to have been made.

### **43 Interim local laws**

- (1) This section applies if land ceases to be in a priority development area and, immediately before the cessation, by-laws applied to the area.
- (2) A regulation may make a local law (the *interim local law*) for the land, about any matter provided for under the by-laws.
- (3) However, the regulation may be made only if the relevant local government has agreed to the making of the regulation.
- (4) For the *Local Government Act 2009* or the *City of Brisbane Act 2010*, the interim local law is taken to have been made under that Act by the relevant local government.
- (5) The interim local law expires 12 months after it commences.

## **Division 4 Relationship with Sustainable Planning Act**

### **Subdivision 1 Effect of declaration of priority development areas**

#### **44 Existing SPA development applications**

- (1) This section applies if, immediately before the declaration of an area as a priority development area—
  - (a) an SPA development application had been made for land in the area; and

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- (b) the application was a properly made application and had not lapsed under that Act; and
  - (c) the application had not been decided.
- (2) Despite the declaration, the application must be decided under the Sustainable Planning Act, and that Act continues to apply, as if the land were not land in a priority development area.

#### **45 Existing SPA development approvals**

If, immediately before the declaration of an area as a priority development area, an SPA development approval is in effect for land in the area, the approval continues in effect as an SPA development approval.

#### **46 Special provision for Northshore Hamilton urban development area**

- (1) This section applies in relation to balance port land that is in the Northshore Hamilton urban development area.
- (2) A person may apply to MEDQ to restart a use of premises on the land if—
- (a) the use—
    - (i) is authorised under a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect; or
    - (ii) was a lawful use of premises immediately before the taking of effect of the first interim land use plan; or
    - (iii) is generally consistent with a use mentioned in subparagraph (i) or (ii); and
  - (b) the application is made within 6 months after the use stopped.
- (3) For making, dealing with and deciding the application, part 4, division 3 applies, with any necessary changes, as if it were a PDA development application.

- (4) A person may, under section 99, apply to MEDQ to change a development approval for a use mentioned in subsection (2)(a)(i) or (ii) to an extent that—
  - (a) only changes the configuration or layout of buildings, other structures or plant; and
  - (b) does not involve an extension of the area of any buildings, other structures or plant.
- (5) A person may apply to MEDQ to change a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect, as if the approval were a PDA development approval.
- (6) An application under subsection (4) or (5) may be made under section 99 as if it were an amendment application under that section.

*Note—*

Under section 99(2), an amendment application may be made only if MEDQ is satisfied the change would not result in the relevant development being substantially different.

- (7) An application mentioned in this section may be made to MEDQ, and approved by MEDQ, despite any provision of the Northshore Hamilton UDA Development Scheme 2009 that prohibits the development.
- (8) An application mentioned in this section may be made in relation to premises at any time until the day the term of the current lease for the premises ends.
- (9) In this section—

***balance port land*** see the *Transport Infrastructure Act 1994*, section 283I.

***current lease***, for premises, means a lease that was in existence for the premises immediately before the commencement of the repealed ULDA Act, section 14A.

*Note—*

The repealed ULDA Act, section 14A commenced on 23 May 2010.

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*first interim land use plan* means the first interim land use plan for the Northshore Hamilton urban development area under the repealed ULDA Act.

*Port of Brisbane Corporation* means Port of Brisbane Corporation Limited ACN 124 048 522.

#### **47 Community infrastructure designations**

- (1) A community infrastructure designation may be made for land in a priority development area.
- (2) The Sustainable Planning Act, chapter 5 applies for making the community infrastructure designation.
- (3) A community infrastructure designation for land that is in force immediately before the land is in a priority development area continues in force.

### **Subdivision 2 Effect of cessation of priority development areas**

#### **48 Conversion of PDA development approval to SPA development approval**

- (1) This section applies if—
  - (a) land ceases to be in a priority development area; and
  - (b) immediately before the cessation, a PDA development approval was in force for—
    - (i) the land; or
    - (ii) if all of the land ceases to be in the priority development area and there is PDA-associated development for the area—the PDA-associated development.
- (2) On the cessation, the PDA development approval is taken to be an SPA development approval that took effect at the same time as the PDA development approval.

- (3) However, if an appeal under section 90 has been started, or is started within 20 business days after the cessation, the appeal may be decided under that section as if the cessation had not happened.

#### **49 Outstanding PDA development applications**

- (1) This section applies if—
  - (a) land ceases to be in a priority development area; and
  - (b) immediately before the cessation, a PDA development application had been made but not decided for—
    - (i) the land; or
    - (ii) if all of the land ceases to be in the priority development area and there is PDA-associated development for the area—the PDA-associated development.
- (2) Despite the cessation, the application must continue to be decided under this Act as if—
  - (a) the land were still in a priority development area and, if the application was for PDA-associated development for the area, the development were still PDA-associated development for the area; and
  - (b) the application were being decided on the day before the cessation.
- (3) If a PDA development approval is granted because of the application, the approval is, immediately after it takes effect under this Act, taken to be an SPA development approval.

#### **50 Provisions for converted SPA development approval**

- (1) This section applies for a PDA development approval that, under section 48(2) or 49(3), becomes an SPA development approval.



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- (2) PDA development conditions stated in the PDA development approval are taken to be conditions of the SPA development approval.
  - (3) The Sustainable Planning Act, section 461 does not apply to the SPA development approval or the conditions, or a decision relating to any of them.
  - (4) To remove any doubt, it is declared that subsection (3) does not limit or otherwise affect any appeal mentioned in section 48(3).
  - (5) The assessing authority under the Sustainable Planning Act for the SPA development approval is taken to be the entity that would have been the assessing authority had—
    - (a) the relevant land never been in a priority development area; and
    - (aa) if the relevant development was PDA-associated development for the priority development area—the relevant development never been PDA-associated development for a priority development area; and
    - (b) an SPA development application been made for the relevant development when the PDA development application for the PDA development approval was made.
  - (6) A person other than the assessing authority under subsection (5) can not bring a proceeding under the Sustainable Planning Act, section 456 in relation to the SPA development approval or the conditions.

## **51 Lawful uses in priority development area**

If—

- (a) under an Act, a use of premises in a priority development area is a lawful use of the premises; and
  - (b) the premises ceases to be in a priority development area;
- the use is taken to be a lawful use of the premises under the Sustainable Planning Act.

## **Division 5                      Miscellaneous provisions**

### **51A      Lawful uses relating to PDA-associated development**

- (1) This section applies if—
  - (a) a material change of use of premises is PDA-associated development for a priority development area; and
  - (b) the use of the premises as a consequence of the material change of use is a lawful use.
- (2) The use is taken to also be a lawful use of the premises under the Sustainable Planning Act.

### **52            Exchange of documents and information with other entities with planning or registration functions**

- (1) Subsection (2) applies on the declaration of a priority development area if a government entity, GOC or local government has planning or registration functions for land or development in the area.
- (2) MEDQ may ask the government entity, GOC or local government to give MEDQ the documents or information the government entity, GOC or local government has that MEDQ reasonably needs to perform its functions.
- (3) The entity must comply with the request within a reasonable period.
- (4) If land ceases to be in a priority development area, MEDQ must give each entity performing functions mentioned in subsection (1) the documents or information MEDQ has that the entity needs to perform its functions.
- (5) Documents or information required to be given under this section must be given free of charge.

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**53 Relationship with the City of Brisbane Act 2010 or the Local Government Act 2009**

- (1) The declaration of an area as a priority development area does not affect—
  - (a) the operation of the *City of Brisbane Act 2010* or the *Local Government Act 2009* in relation to the area; or
  - (b) the area of the relevant local government; or
  - (c) the jurisdiction, under the Acts, of the relevant local government.
- (2) However, the performance of the relevant local government's functions or the exercise of its powers under the Acts is subject to MEDQ's functions or powers under this Act.
- (3) Subsection (1) is subject to section 54.

**54 By-laws**

- (1) MEDQ may make by-laws under this Act for priority development areas about any matter for which a local law may be made, including the creation of offences.
- (2) However, a by-law can not fix a penalty of more than—
  - (a) if the by-law replaces a local law—the maximum penalty units applying to a contravention of the local law it replaces; or
  - (b) otherwise—20 penalty units for an offence against the by-law.
- (3) A by-law *replaces* a local law if—
  - (a) the local law no longer applies to a matter within a priority development area because a by-law provides that the local law does not apply, or applies with stated changes, within the priority development area; and
  - (b) the by-law applies to the matter within the priority development area.

- (4) A by-law may provide that all or part of a stated local law does not apply, or applies with stated changes, within a priority development area.
- (5) If a by-law provides that a stated local law does not apply, or applies with stated changes, within a priority development area, the local law does not apply, or applies with the stated changes, within the area.
- (6) A by-law must be approved by the Governor in Council.

*Note—*

The effect of subsection (6) is that a by-law is subordinate legislation. See the *Statutory Instruments Act 1992*, sections 7, 8(b)(i) and 9(1)(a).

## **Part 3                      Development schemes**

### **Division 1                Making development schemes**

#### **55            Application of div 1**

- (1) This division applies on the declaration of a priority development area.
- (2) However, this division does not apply in relation to a provisional priority development area.

#### **56            Development scheme required**

- (1) Subject to the other provisions of this division, MEDQ must make a development scheme for the area as soon as practicable after the making of the declaration.
- (2) The development scheme is a statutory instrument.

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**57 Content of development scheme**

- (1) The development scheme may provide for any matter that MEDQ considers will promote the proper and orderly planning, development and management of the area.
- (2) The development scheme must include—
  - (a) a land use plan regulating development in the area; and
  - (b) a plan for infrastructure in the area; and
  - (c) an implementation strategy to achieve the main purpose of this Act for the area, to the extent it is not achieved by the land use plan or the plan for infrastructure.
- (3) Without limiting subsection (2)(a), the land use plan may—
  - (a) provide for any matter about which a planning instrument may provide for an area; or
  - (b) identify any PDA assessable development or PDA self-assessable development in the area; or
  - (c) identify development, other than development that is to be carried out entirely within the area, as PDA-associated development for the area; or
  - (d) prohibit the carrying out of particular PDA assessable development; or
  - (e) state that particular development is consistent or inconsistent with the plan; or
  - (f) require public notice of PDA development applications for stated PDA assessable development.
- (3A) If the land use plan identifies development as PDA-associated development for the area, the plan must also—
  - (a) identify whether the development is PDA assessable development or PDA self-assessable development; and
  - (b) if the development is PDA self-assessable development—identify the requirements for carrying out the development; and

- (c) include a description of the land on which the development is proposed to be located; and
  - (d) include a description of the development, including plans and supporting documentation.
- (4) Despite subsections (1) and (2), the development scheme is subject to part 4, division 2.
- (5) In making the development scheme, MEDQ must consider, but is not bound by, a requirement under any of the following relevant to the area—
- (a) a planning instrument;
  - (b) a plan, policy or code made under the Sustainable Planning Act or another Act.

## **58 Preparation of proposed development scheme**

- (1) MEDQ must, as soon as practicable, prepare a proposed development scheme for the area.
- (2) However, before preparing the proposed scheme, MEDQ—
- (a) must consult, in the way it considers appropriate, with the relevant local government; and
  - (b) must make reasonable endeavours to consult, in the way it considers appropriate, with any of the following MEDQ considers will be likely to be affected by a development scheme for the area—
    - (i) a government entity or GOC;
    - (ii) another person or entity.

## **59 Public notification**

- (1) After preparing the proposed development scheme, MEDQ must—
- (a) publish the proposed scheme on the department's website; and
  - (b) in a gazette notice—

- (i) state that the proposed scheme may be inspected on the department's website; and
    - (ii) invite anyone to make submissions on the proposed scheme within a stated period fixed by MEDQ (the *submission period*); and
  - (c) publish a notice to the same effect as the gazette notice at least once in a newspaper circulating in the area of the relevant local government.
- (2) The submission period must end at least 30 business days after it starts.

## **60 Submissions on proposed scheme**

Anyone may make submissions about the proposed development scheme within the submission period.

## **61 Consideration of submissions**

- (1) MEDQ must consider any submissions received within the submission period.
- (2) Subsection (1) does not prevent MEDQ from considering a submission made to it after the submission period has ended.

## **62 Amendment of proposed scheme**

- (1) After complying with section 61, MEDQ may amend the proposed development scheme in any way it considers appropriate.
- (2) If MEDQ considers the amendment significantly changes the proposed scheme, it must re-comply with sections 59 to 61 for the amended scheme.

## **63 Making of scheme**

- (1) MEDQ must, as soon as practicable after complying with sections 61 and 62—

- (a) make the development scheme; and
- (b) prepare a report that—
  - (i) summarises the submissions considered by MEDQ; and
  - (ii) contains information about the merits of the submissions and the extent to which the proposed development scheme was amended to reflect the submissions; and
  - (iii) contains details about any changes to the proposed development scheme published under section 59.

*Note—*

See also the *Sustainable Ports Development Act 2015*, section 29 for additional requirements for making a development scheme.

- (2) MEDQ must publish the report on the department's website.

## **64 When proposed scheme takes effect**

The development scheme does not take effect until it has been approved under a regulation.

## **65 Notice of development scheme**

MEDQ must, as soon as practicable after the development scheme takes effect—

- (a) publish the scheme on the department's website; and
- (b) publish at least once in a newspaper circulating in the area a notice stating that—
  - (i) the scheme has been approved; and
  - (ii) it may be inspected on the department's website; and
- (c) give the relevant local government, and each person who made a submission received within the submission period about the scheme, a notice that—
  - (i) the scheme has been approved; and



- (ii) MEDQ's report about the scheme can be inspected on the department's website.

## **Division 2                      Amendment of development schemes**

### **66            General power to amend**

MEDQ may amend a development scheme if—

- (a) the amendment does not change the land use plan for the relevant priority development area in the scheme; or
- (b) the amendment is a minor administrative amendment.

*Note—*

See also the *Sustainable Ports Development Act 2015*, section 29 for additional requirements for amending a development scheme.

### **67            Power to amend to change land use plan**

- (1) MEDQ may amend a development scheme to change the land use plan for the relevant priority development area in the scheme only if procedures under division 1 for making development schemes have been followed.
- (2) Division 1 applies to the amendment as if—
  - (a) a reference in the division to making a development scheme were a reference to the making of the amendment; and
  - (b) a reference in the division to a proposed development scheme were a reference to the proposed amendment; and
  - (c) a reference in section 59(2) to 30 business days were a reference to 15 business days.
- (3) To remove any doubt, it is declared that an amendment mentioned in subsection (1) may be made even if it is materially detrimental to someone's interests.

## **68 When amendment takes effect**

An amendment of a development scheme by MEDQ does not take effect until it has been approved under a regulation.

## **69 Notice of amendment**

MEDQ must, as soon as practicable after an amendment of a development scheme takes effect—

- (a) publish the amended development scheme on the department's website; and
- (b) publish at least once in a newspaper circulating in the area of the relevant priority development area, a notice stating that—
  - (i) the scheme has been amended; and
  - (ii) the amended scheme may be inspected on the department's website.

## **Division 3 Miscellaneous provisions**

### **70 Tabling and inspection requirement**

- (1) This section applies if—
  - (a) a regulation under this part approves a development scheme or an amendment of a development scheme; and
  - (b) the development scheme or amendment is not part of, or attached to, the regulation.
- (2) The Minister must, when the regulation is tabled in the Legislative Assembly under the *Statutory Instruments Act 1992*, section 49, also table a copy of the development scheme or amendment.

*Note—*

MEDQ must keep a register of development schemes as amended from time to time, and publish them on the department's website. See section 172.

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- (3) A failure to comply with this section does not invalidate or otherwise affect the regulation.

**71 Development scheme prevails over particular instruments**

If there is a conflict between a development scheme and any of the following instruments, the development scheme prevails to the extent of the inconsistency—

- (a) a planning instrument;
- (b) a plan, policy or code made under the Sustainable Planning Act or another Act.

**Part 4 Development and uses in or for priority development areas**

**Division 1 PDA development offences**

**72 Application of div 1**

This division applies subject to division 2.

**73 Carrying out PDA assessable development without PDA development permit**

- (1) A person must not carry out PDA assessable development without a PDA development permit for the development.

Maximum penalty—1665 penalty units.

*Note—*

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this subsection committed by the corporation.

- (2) Despite subsection (1), the maximum penalty is 17,000 penalty units if the PDA assessable development is—
- (a) the demolition of a building identified in a relevant development instrument as a building of cultural heritage significance; or
  - (b) on a Queensland heritage place under the *Queensland Heritage Act 1992*.

#### **74 Compliance with requirements for carrying out PDA self-assessable development**

If a person carries out PDA self-assessable development, the person must comply with the requirements about carrying out the development—

- (a) under the relevant development instrument for the area; or
- (b) if the development is PDA-associated development declared for the area under section 40C(1)—decided by MEDQ under section 40C(4).

Maximum penalty—165 penalty units.

*Note—*

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation.

#### **75 Compliance with PDA development approval**

A person must not contravene a PDA development approval.

Maximum penalty—1665 penalty units.

*Note—*

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation.

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## **76 Offence about use of premises**

A person must not use premises in a priority development area, or premises subject to PDA-associated development for a priority development area, unless the use is a lawful use of the premises.

Maximum penalty—1665 penalty units.

*Note—*

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation.

## **Division 2 Protection of particular uses and rights**

### **77 Exemption for particular SPA development approvals and community infrastructure designations**

- (1) This section applies to—
  - (a) an SPA development approval for land in a priority development area—
    - (i) granted under section 44(2); or
    - (ii) continued in force under section 45; and
  - (b) a community infrastructure designation continued in force under section 47(2)—for land in a priority development area.
- (2) The carrying out of development or the use of premises under the approval or community infrastructure designation is not a PDA development offence.

### **78 Lawful uses of premises protected**

- (1) This section applies if—

- (a) a relevant development instrument, or an amendment of a relevant development instrument, takes effect for a priority development area; and
  - (b) immediately before the instrument or amendment took effect, either of the following was a lawful use of premises—
    - (i) a use of premises in the priority development area;
    - (ii) a use of premises as a consequence of a material change of use that was PDA-associated development for the priority development area.
- (2) Neither the relevant development instrument nor the amendment can—
- (a) stop the use from continuing; or
  - (b) further regulate the use; or
  - (c) require the use to be changed.

## **79 Lawfully constructed buildings and works protected**

To the extent a building has been lawfully constructed or works lawfully carried out, neither a relevant development instrument nor an amendment of a relevant development instrument can require the building or works to be altered or removed.

## **80 Amendment of relevant development instrument does not affect existing SPA or PDA development approval**

- (1) This section applies if—
- (a) a PDA development approval, or an SPA development approval for premises in a priority development area, is in effect; and
  - (b) after the approval is given, the relevant development instrument for the area is amended.

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- (2) To the extent the approval has not lapsed, the amendment does not stop or further regulate the relevant development, or otherwise affect the approval.

## **81 Development or use carried out in emergency**

- (1) A person does not commit a PDA development offence if—
- (a) the person carries out development or a use of premises because of an emergency endangering—
    - (i) the life or health of a person; or
    - (ii) the structural safety of a building; or
    - (iii) the operation or safety of community infrastructure that is not a building; and
  - (b) the person gives notice of the development or use that would otherwise be a PDA development offence to MEDQ as soon as practicable after starting the development or use.
- (2) However, subsection (1) does not apply if the person is required by an enforcement order to stop carrying out the development or use.

## **Division 3 PDA development applications**

### **Subdivision 1 Making application**

#### **82 How to make application**

- (1) Each PDA development application must—
- (a) be made to MEDQ in the approved form; and
  - (b) contain, or be accompanied by, the consent of the owner of the relevant land, other than to the extent the application is for operational work; and

- (c) be accompanied by the application fee decided by MEDQ.

*Note—*

A single application may be made for both a PDA preliminary approval and a PDA development permit.

- (2) The application is a properly made application only if—
  - (a) it complies with subsection (1); or
  - (b) MEDQ receives and, after considering any noncompliance with subsection (1), accepts the application.
- (3) A provision of this division applies to a PDA development application only if it is a properly made application.

## **Subdivision 2      Processing application**

### **83      Information requests to applicant**

- (1) MEDQ may, by notice (an *information request*), ask the applicant to, within a stated period of at least 20 business days, give further stated information relevant to the application that MEDQ needs to decide the application.
- (2) However, an information request can not be made more than 20 business days after the making of the application.
- (3) If the applicant does not comply with the request within the stated period or a longer period agreed between the applicant and MEDQ, MEDQ may refuse the application.
- (4) However, MEDQ may refuse the application only if it has given the applicant at least 10 business days notice of its intention to do so.

### **84      Notice of application**

- (1) This section applies only if—



- (a) the relevant development instrument for the relevant priority development area requires public notice of PDA development applications for the relevant development; or
  - (b) the relevant development is—
    - (i) PDA-associated development declared for the relevant priority development area by MEDQ under section 40C(1); and
    - (ii) PDA assessable development; or
  - (c) MEDQ, within 20 business days after the making of the application, gives the applicant notice that the applicant must comply with this section.
- (2) The applicant must—
- (a) publish a notice about the application in a newspaper circulating in the area of the relevant local government; and
  - (b) place the notice on the relevant land in the way prescribed under a regulation; and
  - (c) give a copy of the notice to—
    - (i) MEDQ; and
    - (ii) the owners of all land that adjoins the relevant land; and
    - (iii) each entity MEDQ requires the applicant to give a copy to.
- (3) However, if an information request has been given for the application, the steps under subsection (2) must not start until the applicant has complied with the request.
- (4) The notice must—
- (a) state that—
    - (i) the applicant has made a PDA development application; and

- (ii) the application may be inspected on the department's website; and
  - (b) describe the relevant land; and
  - (c) generally describe the relevant development; and
  - (d) invite anyone to make submissions to MEDQ about the application within a stated period (the *submission period*); and
  - (e) state that the making of a submission does not give rise to a right of appeal against a decision about the application.
- (5) The submission period—
- (a) must not start before subsection (2) is complied with; and
  - (b) must be at least 20 business days; and
  - (c) must not include any business day from 20 December in a particular year to 5 January in the following year, both days inclusive.
- (6) A requirement under subsection (2)(c)(iii) may be made only if MEDQ considers the entity has an interest in the outcome of the application.

## **85 Deciding application generally**

- (1) MEDQ can not decide the application unless MEDQ is satisfied—
- (a) if an information request has been made for the application—the request has been complied with; and
  - (b) if section 84 applies for the application—the applicant has complied with the section; and
  - (c) the submission period for the application has ended.
- (2) Subject to section 83(3), MEDQ must decide the application within 40 business days after it is satisfied as mentioned in subsection (1).

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- (3) However, a failure to comply with subsection (2) does not prevent MEDQ from deciding the application.
  - (4) MEDQ must decide to—
    - (a) grant all or part of the PDA development approval applied for; or
    - (b) grant all or part of the PDA development approval applied for subject to conditions decided by MEDQ (each a *PDA development condition*); or
    - (c) refuse to grant a PDA development approval.
  - (5) To remove any doubt, it is declared that—
    - (a) MEDQ may give a PDA preliminary approval even though the applicant sought a PDA development permit; and
    - (b) if MEDQ approves only part of an application, the balance of the application is taken to have been refused.

## **86 Restrictions on granting approval**

- (1) MEDQ can not grant the PDA development approval applied for if the relevant development would be inconsistent with the relevant development instrument for the relevant priority development area unless—
  - (a) an SPA preliminary approval is in force for the relevant land and the relevant development would be consistent with the preliminary approval; or
  - (b) a PDA preliminary approval is in force for the relevant land and the relevant development would be consistent with the preliminary approval; or
  - (c) for a priority development area other than a provisional priority development area—there is a proposed development scheme and the relevant development would be consistent with the proposed development scheme.

- (2) To remove any doubt, it is declared that subsection (1) does not require MEDQ to grant the PDA development approval only because subsection (1)(a), (b) or (c) applies.
- (2A) If PDA-associated development is declared for a priority development area under section 40C(1), the development is not inconsistent with the relevant development instrument for the area only because the instrument does not identify the development or adequately provide for its assessment.
- (3) In this section—  
*proposed development scheme*, for the relevant priority development area, means a proposed development scheme, or a proposed amendment of a development scheme, for the area published under section 59, or section 59 as applied under section 67, that has not taken effect.

## **87 Matters to be considered in making decision**

- (1) In deciding the application, MEDQ must consider—
  - (a) the main purpose of this Act; and
  - (b) any relevant State interest; and
  - (c) any submissions made to it about the application, during the submission period; and
  - (d) the following, as in force or as prepared when the application is decided—
    - (i) for an application for development in, or PDA-associated development for, a provisional priority development area—the provisional land use plan for the area;
    - (ii) for an application for development in, or PDA-associated development for, another priority development area—
      - (A) if there is a development scheme for the area—the development scheme; or

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- (B) if there is no development scheme for the area but there is a proposed development scheme for the area—the interim land use plan for the area and the proposed development scheme; or
  - (C) if there is no development scheme for the area and no proposed development scheme for the area—the interim land use plan for the area; and
- (e) any PDA preliminary approval in force for the relevant land; and
  - (f) any SPA preliminary approval in force for the relevant land.
- (2) Also, in deciding an application for development in, or PDA-associated development for, a priority development area other than a provisional priority development area, if—
- (a) there is—
    - (i) a development scheme or interim land use plan for the area; and
    - (ii) a proposed development scheme for the area; and
  - (b) the proposed development scheme was prepared after the development scheme or interim land use plan took effect;

MEDQ may, subject to section 86, give the weight it considers appropriate to the proposed scheme.

- (2A) In deciding an application for PDA-associated development for a priority development area, MEDQ may, subject to section 86, give the weight it considers appropriate to any planning instrument, or a plan, policy or code made under the Sustainable Planning Act or another Act, that would have applied if the development were not PDA-associated development.
- (3) Subsection (1)(c) does not prevent MEDQ from considering a submission about the application made to it after the submission period has ended.

(4) In this section—

*proposed development scheme*, for a priority development area, means a proposed development scheme, or a proposed amendment of a development scheme, for the area published under section 59, or section 59 as applied under section 67, that has not taken effect.

*State interest* includes—

- (a) an interest relating to the main purpose of this Act; and
- (b) an interest that, in MEDQ's opinion, affects an economic, community or environmental interest of the State or a region.

## **88 PDA development conditions**

Without limiting section 85(4), a PDA development condition may—

- (a) nominate a stated entity to be the nominated assessing authority for the condition; or
- (b) relate to infrastructure, and the payment of charges or the surrender of land for infrastructure, for any priority development area; or
- (c) require the making of stated improvements to the relevant land; or
- (d) impose a condition or restriction on a disposal of the relevant land.

## **89 Decision notice**

- (1) MEDQ must, within 5 business days after deciding the application, give notice of the decision (the *decision notice*) to—
  - (a) the applicant; and
  - (b) the relevant local government; and

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- (c) if the decision was to grant a PDA development approval—any nominated assessing authority.
  - (2) The decision notice must—
    - (a) be in the approved form; and
    - (b) state the decision; and
    - (c) state any PDA development conditions decided.
  - (3) If the decision was to refuse to grant an approval, the decision notice must state the reasons for the refusal.
  - (4) If the decision was to grant a PDA development approval, MEDQ must, when giving the decision notice to an entity mentioned in subsection (1), also give the entity a copy of any plans and specifications approved by MEDQ concerning the approval.

## **Subdivision 3 Appeals**

### **90 Right of appeal against particular conditions**

- (1) This section applies if a PDA development condition includes a nominated assessing authority (the *entity*).
- (2) The person who made the relevant PDA development application may appeal to the Planning and Environment Court against MEDQ's decision to impose the condition.
- (3) An appeal under subsection (2) must be started within 20 business days after the day the applicant is given notice of the decision.
- (4) The Sustainable Planning Act, chapter 7, part 1, divisions 11 to 13, apply to the appeal as if—
  - (a) it were an appeal mentioned in the divisions; and
  - (b) the entity were the only other party to the appeal.
- (5) However—
  - (a) the appellant must, as soon as practicable after giving the entity the notice of the appeal required under the

Sustainable Planning Act, chapter 7, part 1, division 11, give MEDQ a copy of the notice; and

- (b) MEDQ may, by lodging a notice of election with the registrar of the court, elect to become a party to the appeal.
- (6) MEDQ must give the other parties a copy of the notice of election as soon as practicable after it is lodged.

## **Subdivision 4      Miscellaneous provisions**

### **91      Approved material change of use required for particular developments**

- (1) This section applies if, when a PDA development application is made—
  - (a) a structure or works, the subject of the application, may not be used unless a PDA development permit exists for the material change of use of premises for which the structure is, or works are, proposed; and
  - (b) there is no PDA development permit for the change of use; and
  - (c) approval for the material change of use has not been applied for in the application or a separate application.
- (2) The application is taken also to be for the change of use.

### **92      Changing application**

- (1) A PDA development application may be changed by the applicant only if—
  - (a) the applicant has given MEDQ a notice stating details of the proposed change; and
  - (b) MEDQ has agreed in writing to the making of the change.



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- (2) The agreement under subsection (1)(b) may be given only if MEDQ is satisfied the change would not result in the relevant development being substantially different.

### **93      **Withdrawing application****

- (1) A PDA development application may be withdrawn by the applicant by notice given to MEDQ at any time before the application is decided.
- (2) MEDQ may refund all or part of any fee paid for the application.

## **Division 4                      **PDA development approvals****

### **94      **Types of PDA development approvals****

- (1) A *PDA preliminary approval* is a PDA development approval that—
- (a) approves development, but does not authorise PDA assessable development to take place; and
  - (b) approves development—
    - (i) to the extent stated in the approval; and
    - (ii) subject to the conditions of the approval.
- (2) A *PDA development permit* is a PDA development approval that authorises the carrying out of PDA assessable development—
- (a) to the extent provided for under the permit; and
  - (b) subject to—
    - (i) the conditions of the permit; and
    - (ii) any PDA preliminary approval relating to the development the permit authorises, including any conditions of the PDA preliminary approval.

- (3) There is no requirement to get a PDA preliminary approval for development.

*Note—*

PDA preliminary approvals assist in the staging of approvals.

## **95 Duration of approval**

- (1) A PDA development approval has effect from when the decision notice for the relevant PDA development application is given.
- (2) The relevant development may, subject to any relevant PDA development conditions, start when the approval takes effect.
- (3) However, the approval ceases to have effect if it—
  - (a) is cancelled under section 98; or
  - (b) lapses under section 100 or 102.

## **96 Approval attaches to the relevant land**

- (1) A PDA development approval attaches to the relevant land, and binds its owner, the owner's successors in title and any occupier of the land.
- (2) To remove any doubt, it is declared that subsection (1) applies even if later development, including reconfiguring a lot, is approved for the land, or the land as reconfigured under the PDA development approval.

## **97 Provision for enforcement of PDA development conditions**

- (1) If there is a nominated assessing authority for a PDA development condition, the Sustainable Planning Act, chapter 7, part 3, divisions 2 and 3, and any other Act that refers to an SPA development approval applies to the condition as if—
  - (a) the relevant PDA development approval were an SPA development approval; and

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- (b) the nominated assessing authority were an assessing authority under the Sustainable Planning Act for development under the PDA development approval; and
  - (c) the reference to a development offence under the Sustainable Planning Act were a reference to a PDA development offence.
- (2) To remove any doubt, it is declared that this section does not limit or otherwise affect MEDQ's ability to apply for an enforcement order or to start a proceeding under this Act relating to the condition.

## 98 Cancellation

- (1) MEDQ may cancel a PDA development approval only if the owner of the relevant land consents in writing to the cancellation.
- (2) However, MEDQ can not cancel the PDA development approval if the relevant development has substantially commenced.
- (3) MEDQ may refund all or part of any fee paid for the relevant PDA development application.

## 99 Application to change PDA development approval

- (1) A person may apply (the *amendment application*) to MEDQ to change a PDA development approval.
- (2) However, the amendment application may be made only if MEDQ is satisfied the change would not result in the relevant development being substantially different.
- (3) Division 3 applies for the amendment application as if—
  - (a) a reference in the division to a PDA development application were a reference to the amendment application; and
  - (b) a reference in the division to a PDA development approval were a reference to a changed PDA development approval; and

- (c) a reference in the division to the granting of a PDA development approval were a reference to the making of the change.
- (4) However, section 84 does not apply for the amendment application.
- (5) If the person is not the owner of the relevant land for the PDA development approval, the amendment application must be accompanied by the owner's consent.

## **100 When approval lapses generally**

- (1) This section applies subject to section 102(5) and any extension granted under section 102.
- (2) A PDA development approval lapses at the end of its currency period unless—
  - (a) for development that is a material change of use—the change of use happens before the currency period ends; or
  - (b) for development that is reconfiguring a lot—the plan for the reconfiguration of the lot is given to MEDQ for its approval before the currency period ends; or
  - (c) for development not mentioned in paragraph (a) or (b)—development under the approval substantially starts before the currency period ends.
- (3) To the extent the PDA development approval is for development other than a material change of use or reconfiguring a lot, its *currency period* is—
  - (a) generally—2 years from the day the approval takes effect (the *day of effect*); or
  - (b) if the approval states a different period—the stated period.
- (4) To the extent the PDA development approval is for development that is a material change of use, its *currency period* is—

- (a) 4 years from the day of effect; or
  - (b) if the approval states a different period—the stated period.
- (5) To the extent the PDA development approval is for development that is reconfiguring a lot, its ***currency period*** is—
- (a) if the reconfiguring does not require operational work—2 years from the day of effect; or
  - (b) if the reconfiguring requires operational work—4 years from the day of effect; or
  - (c) if the approval states a different period—the stated period.
- (6) Also, despite subsections (4) and (5), if there are 1 or more related approvals for a PDA development approval mentioned in subsection (4) or (5), the currency period is taken to have started on the day the latest related approval takes effect.
- (7) The lapsing of a PDA development approval for a material change of use of premises or reconfiguring a lot does not cause an approval mentioned in subsection (3) to lapse.
- (8) In this section—

***private certifier*** means a building certifier whose licence under the *Building Act 1975* has private certification endorsement under that Act.

***related approval*** means—

- (a) for a PDA development approval for development that is a material change of use of premises (the ***earlier approval***)—
  - (i) the first PDA development approval for a PDA development application made to MEDQ, or the first SPA development approval made to a local government or private certifier, within 2 years after the start of the currency period, that is—

- (A) to the extent the earlier approval is a PDA preliminary approval—a PDA development permit for the material change of use; or
  - (B) to the extent the earlier approval is a PDA development permit—a PDA development permit for building work or operational work, or an SPA development permit for building work, necessary for the material change of use to take place; or
  - (ii) each further PDA development permit for a PDA development application made to MEDQ, or the first SPA development permit for an SPA development application made to a local government or private certifier, within 2 years after the day the last related approval takes effect, that is for building work or operational work necessary for the material change of use to take place; or
- (b) for a PDA development approval for reconfiguring a lot (also the *earlier approval*)—
- (i) the first PDA development permit for a PDA development application made to MEDQ, within 2 years after the start of the currency period, that is—
    - (A) to the extent the earlier approval is a PDA preliminary approval—for the reconfiguration; or
    - (B) to the extent the earlier approval is a PDA development permit for reconfiguring a lot—for operational work related to the reconfiguration; or
  - (ii) each further PDA development permit, for a PDA development application made to MEDQ within 2 years after the day the last related approval takes effect, that is for operational work related to the reconfiguration.

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## **101 Application to extend currency period**

- (1) Before a PDA development approval lapses under section 100(2), a person having an interest in the relevant land may apply to MEDQ to extend the approval's currency period applying under section 100.
- (2) However, an application under subsection (1) can not be made for a PDA development approval for a provisional priority development area.
- (3) The application must be—
  - (a) in the approved form; and
  - (b) made before the currency period ends; and
  - (c) accompanied by the application fee decided by MEDQ.

## **102 Deciding extension application**

- (1) This section applies if an application for an extension is made under section 101.
- (2) Before granting or refusing the extension, MEDQ must consult with each nominated assessing authority under the PDA development approval.
- (3) MEDQ must grant or refuse the extension within—
  - (a) generally—20 business days after the making of the application; or
  - (b) if, during the 20 business days, MEDQ and the applicant agree on a longer period—the longer period.
- (4) MEDQ must, within 5 business days after making the decision, give notice of the decision to the applicant and each nominated assessing authority under the PDA development approval.
- (5) Despite section 100, the PDA development approval does not lapse until MEDQ has given the applicant the notice under subsection (4).
- (6) If the decision was to refuse the extension, the notice must state the reasons for the refusal.

## Division 5                      Miscellaneous provisions

### 103      Restriction on particular land covenants

A covenant under the *Land Title Act 1994*, section 97A(3)(a) or (b) or the *Land Act 1994*, section 373A(4) for land in a priority development area is of no effect to the extent the covenant is inconsistent with the relevant development instrument for the area.

### 104      Plans of subdivision

- (1) This section applies to a plan of subdivision if—
  - (a) under another Act, the plan requires MEDQ’s approval, in whatever form, before it can be registered or otherwise recorded under that Act; and
  - (b) the plan would, other than for the requirement mentioned in paragraph (a), be required to undergo compliance assessment under the Sustainable Planning Act (*SPA compliance assessment*).
- (2) The plan must undergo SPA compliance assessment as if compliance assessment under the Sustainable Planning Act were required for it.
- (3) For the SPA compliance assessment, the SPA compliance provisions apply—
  - (a) as if a reference in the provisions to a subdivision plan were a reference to the plan; and
  - (b) as if a reference in the provisions to the compliance assessor or the local government were a reference to MEDQ; and
  - (c) as if a reference in the provisions to a development permit were a reference to a PDA development permit; and
  - (d) as if a reference in the provisions to a condition of a development permit were a reference to a PDA



- development condition of the PDA development permit;  
and
- (e) as if a reference in the provisions to a preliminary approval were a reference to a PDA preliminary approval; and
  - (f) as if a reference in the provisions to a condition of a preliminary approval were a reference to a PDA development condition of the PDA preliminary approval; and
  - (g) as if a reference in the provisions to rates or charges levied for land included a reference to a special rate or charge or an infrastructure expenses recoupment charge; and
  - (h) as if a reference in the provisions to assessable development were a reference to PDA assessable development.
- (4) In this section—

***plan of subdivision*** means a plan or agreement, however called, for reconfiguring a lot.

***SPA compliance provisions*** means any provisions of a regulation made under the Sustainable Planning Act about compliance assessment under that Act of a plan of subdivision.



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- (2) If the court is satisfied the offence is being or has been committed, it may make the order whether or not there has been a prosecution for the offence.

## **108 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 PDA development offence; or
  - (b) not to start an activity that will constitute a PDA development offence; or
  - (c) to do anything required to stop committing a PDA development offence; or
  - (d) to return anything to a condition as close as practicable to the condition it was in immediately before a PDA development offence was committed; or
  - (e) to do anything about a development or use to comply with this Act.
- (2) Without limiting the Planning and Environment Court's powers, it may make an enforcement order requiring—
- (a) the repairing, demolition or removal of a building; or
  - (b) for a PDA development offence relating to the clearing of vegetation on freehold land—
    - (i) rehabilitation or restoration of the area cleared; or
    - (ii) if the area cleared is not capable of being rehabilitated or restored—the planting and nurturing of stated vegetation on a stated area of equivalent size.
- (3) An enforcement order must state the time by which it must be complied with.
- (4) An enforcement order may—
- (a) be in terms the court considers appropriate to secure compliance with this Act; and

- (b) state that contravention of the order is a public nuisance.
- (5) In this section—
- clearing*, of vegetation—
- (a) means removing, cutting down, ringbarking, pushing over, poisoning or destroying it in any way, including by burning, flooding or draining; but
  - (b) does not include lopping a tree or the destruction of standing vegetation by stock.

## 109 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 another person

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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 MEDQ 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 Sustainable Planning Act, section 457.

- (5) In this section—

***environment*** see the Sustainable Planning Act, schedule 3.

## **110 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—

- (a) section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation; and
- (b) the Sustainable Planning Act, section 439 (Contempt and contravention of orders).

## **Division 2 Magistrates Court orders**

### **111 Orders Magistrates Court may make in PDA offence proceeding**

- (1) After hearing a complaint for a PDA development offence, the Magistrates Court may make an order against the defendant that the court considers appropriate.

- (2) The order may be made in addition to, or in substitution for, any penalty the court may otherwise impose.
- (3) The order may require the defendant—
  - (a) to stop development or carrying on a use; or
  - (b) to demolish or remove work carried out; or
  - (c) to restore, as far as practicable, premises to the condition the premises were in immediately before development or use of the premises started; or
  - (d) to do, or not to do, another act to ensure development or use of the premises complies with a PDA development approval or a relevant development instrument; or
  - (e) for development that has started—to make a PDA development application for the development.
- (4) The order must state the time by which, or period within which, the order must be complied with.
- (5) The order may state that contravention of the order is a public nuisance.

## **112 Offence to contravene Magistrates Court order**

A person against whom an order under section 111 has been made must comply with the order.

Maximum penalty—1665 penalty units or 1 year's imprisonment.

*Note—*

See also section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation.

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## **Division 3                      Other provisions relating to court orders or proceedings**

### **113      MEDQ's power to remedy stated public nuisance**

- (1) This section applies if an enforcement order or an order under section 111 states that contravention of the order is a public nuisance.
- (2) If the order is not complied with, MEDQ may undertake any work necessary to remove the nuisance.
- (3) If MEDQ carries out works under subsection (2), it may recover from the person against whom the order was made the reasonable cost of the works, as a debt.

### **114      Planning and Environment Court may make declarations**

- (1) MEDQ may bring a proceeding in the Planning and Environment Court for a declaration about—
  - (a) a matter done, to be done or that should have been done for this chapter or the repealed ULDA Act; or
  - (b) the construction of this chapter or the repealed ULDA Act; or
  - (c) the lawfulness of land use or development relating to a priority development area.
- (2) The court may make an order about a declaration made under subsection (1).
- (3) Subsection (4) applies to a proceeding mentioned in subsection (1) if the land to which the proceeding relates ceases to be in, or to be PDA-associated land for, a priority development area.
- (4) To remove any doubt, it is declared that the proceeding is not affected only because the land has ceased to be in, or to be PDA-associated land for, a priority development area.

## **Part 6**                      **Particular charges**

### **Division 1**                **Special rates or charges**

#### **115**    **Levying special rates or charges**

- (1) MEDQ may make and levy on owners or occupiers of rateable land in a priority development area, or rateable land that is PDA-associated land for a priority development area, a special rate or charge on the land if—
  - (a) the rate or charge is for a service, facility or activity provided by MEDQ, or by a local government or someone else at MEDQ's request; and
  - (b) in MEDQ's opinion—
    - (i) the land, or the owner or occupier of the land, has or will specially benefit from, or has or will have special access to, the service, facility or activity; or
    - (ii) the owner or occupier of the land, or the use made or to be made of the land, has, or will, specially contribute to the need for the service, facility or activity.
- (2) The special rate or charge may be made and levied on the bases MEDQ considers appropriate.

*Note—*

See also section 117 in relation to the recovery of a special rate or charge.

- (3) MEDQ may fix a minimum amount of the special rate or charge.
- (4) Without limiting subsection (2), the amount of the special rate or charge may vary according to the extent to which, in MEDQ's opinion—
  - (a) the land, or the owner or occupier of the land, has or will specially benefit from, or has or will have special access to, the service, facility or activity; or



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- (b) the owner or occupier of the land, or the use made or to be made of the land, has, or will, specially contribute to the need for the service, facility or activity.
- (5) MEDQ's instrument making the special rate or charge must identify—
- (a) the rateable land to which the rate or charge applies; and
  - (b) the overall plan for the supply of the service, facility or activity.
- (6) The overall plan must—
- (a) be adopted by MEDQ either before, or at the same time as, MEDQ first makes the special rate or charge; and
  - (b) identify the rateable land to which the rate or charge applies; and
  - (c) describe the service, facility or activity; and
  - (d) state the estimated cost of implementing the overall plan; and
  - (e) state the estimated time for implementing the overall plan.
- (7) MEDQ may identify parcels of rateable land to which the rate or charge applies in any way MEDQ considers appropriate.
- (8) Subsection (1) is taken to have been complied with if the special rate or charge is made and levied on—
- (a) all rateable land that, at the time of making and levying the rate or charge, could reasonably be identified as land on which the rate or charge may be made and levied; or
  - (b) all rateable land on which the rate or charge may be made and levied, other than land accidentally omitted.

## **116 Application of special rate or charge**

- (1) A special rate or charge collected for a particular service, facility or activity must be used for that purpose.
- (2) However, the special rate or charge need not be held in trust.

## **Division 2                      Infrastructure expenses recoupment charges**

### **116A    Definitions for div 2**

In this division—

*charge area* means 1 of the following identified in an authorising instrument—

- (a) a single priority development area;
- (b) a part of a single priority development area;
- (c) an area consisting of 2 or more priority development areas, or parts of 2 or more priority development areas, in the same local government area;
- (d) PDA-associated land for a priority development area.

*provision*, of infrastructure, includes coordination of the provision of the infrastructure.

### **116B    Making and levying charge**

- (1) Subsection (2) applies if MEDQ incurs, or reasonably expects to incur, an expense for the provision of infrastructure in relation to land in a charge area.
- (2) MEDQ may, by instrument (the *authorising instrument*), make and levy on owners of rateable land in the charge area a charge (an *infrastructure expenses recoupment charge*) on the rateable land to recoup, or provide for payment of, the expense.
- (3) However, subsection (2) does not apply if—
  - (a) the infrastructure is a facility or service for which a special rate or charge has been made and levied; or
  - (b) the expense is recouped or provision is made for payment of the expense, other than by levying the charge.

- 
- (4) Subsection (2) is taken to have been complied with if the charge is made and levied on—
- (a) all rateable land that, at the time of making and levying the charge, could reasonably be identified as land on which the charge may be made and levied; or
  - (b) all rateable land on which the charge may be made and levied, other than land accidentally omitted.
- (5) To remove any doubt, it is declared that subsection (2) applies even if MEDQ incurred, or reasonably expected to incur, the expense for the provision of infrastructure in relation to the land before the land was in a charge area.

### **116C Requirements for authorising instrument**

- (1) The authorising instrument for an infrastructure expenses recoupment charge must—
- (a) identify—
    - (i) the charge area to which the charge relates; and
    - (ii) the rateable land to which the charge applies; and
    - (iii) the overall plan for the provision of the infrastructure to which the charge relates; and
  - (b) state—
    - (i) the amount of the charge for the residential land in the charge area; and
    - (ii) the way the amount of the charge for the non-residential land in the charge area is worked out; and
    - (iii) the rate, by reference to a stated index that is relevant to the estimated cost of the provision of infrastructure, by which the amount of the charge can be increased; and
    - (iv) the intervals at which the amount of the charge can be increased.
- (2) The overall plan must—

[s 116D]

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- (a) describe the infrastructure to which the charge relates; and
  - (b) state the estimated expenses and time for the provision of the infrastructure.
- (3) MEDQ may identify parcels of rateable land to which the charge applies in any way MEDQ considers appropriate.
- (4) In this section—
- non-residential land* means rateable land other than residential land.
- residential land* means rateable land for which a residential use under a development scheme is provided.

#### **116D Basis and amount of charge**

- (1) An infrastructure expenses recoupment charge may be made and levied on the bases MEDQ considers appropriate.
- Note—*
- See also section 117 in relation to the recovery of the charge.
- (2) Without limiting subsection (1), MEDQ may—
- (a) fix a minimum amount of the charge; or
  - (b) decide whether a discount for payment of the charge applies and the amount and terms of any discount.
- (3) However, an infrastructure expenses recoupment charge may be increased by no more than the rate, and only at the intervals, stated in the authorising instrument for the charge.

#### **116E Making and levying of charge by superseding public sector entity**

- (1) This section applies if—
- (a) MEDQ has made and levied an infrastructure expenses recoupment charge to recoup an incurred expense, or provide for the payment of an expected expense, for the provision of infrastructure (the *planned infrastructure*)

- 
- in relation to land (the *relevant land*) in a charge area consisting of the whole or part of a priority development area or PDA-associated land for a priority development area; and
- (b) the declaration regulation under which the priority development area was declared is revoked so the relevant land ceases to be in, or to be PDA-associated land for, a priority development area.
- (2) However, this section does not apply for an expense that MEDQ has recouped.
  - (3) On and after the revocation of the declaration regulation—
    - (a) the infrastructure expenses recoupment charge is taken to have been made and levied by the superseding public sector entity for the relevant land; and
    - (b) the superseding public sector entity may continue to make and levy the infrastructure expenses recoupment charge.
  - (4) For subsection (3)(b), this division, other than section 116B(1) and (5) and this section, applies as if a reference in the division to MEDQ were a reference to the superseding public sector entity.
  - (5) However, to remove any doubt, it is declared that subsections (3)(b) and (4) do not authorise the superseding public sector entity to make and levy an infrastructure expenses recoupment charge to recoup or provide for an expense, other than for the provision of the planned infrastructure.

## **Division 3                      Recovery of relevant charges**

### **116F    Definitions for div 3**

In this division—

*charge notice* see section 116G(1).

***charging entity*** means—

- (a) for an infrastructure expenses recoupment charge made and levied, or taken to have been made and levied, by a superseding public sector entity—the public sector entity; or
- (b) otherwise—MEDQ.

***relevant charge*** means—

- (a) a special rate or charge; or
- (b) an infrastructure expenses recoupment charge.

### **116G Charge notice**

- (1) The charging entity must give the owner of each parcel of rateable land on which a relevant charge is levied notice of the charge (a ***charge notice***).
- (2) The charge notice must state—
  - (a) the rateable land and the relevant charge; and
  - (b) the amount of the charge payable; and
  - (c) the due date for payment of the charge; and
  - (d) if a discount for the charge applies—
    - (i) the terms of the discount; and
    - (ii) the last day of the discount period; and
  - (e) the ways in which the charge may be paid.
- (3) The charge notice may form part of another notice given by the charging entity to the owner of the land.

*Example of another notice given by a charging entity—*

a rate notice given by a local government

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## 117 Recovery of relevant charge

- (1) A relevant charge does not become owing until 20 business days after the owner of the land on which the charge is levied is given a charge notice for the charge.
- (2) If there is more than 1 owner of the land, all the owners are jointly and severally liable to pay the amount.
- (3) If the amount becomes owing under subsection (1), the charging entity may recover it from the owner as a debt.
- (4) Also, the charging entity may recover the amount from the owner for the time being of the land.
- (5) If the charging entity may recover the amount under this section, the local government overdue rates or charges provisions apply for the amount as if—
  - (a) the relevant charge were a rate or charge under the *Local Government Act 2009* or the *City of Brisbane Act 2010* on the land to which the relevant charge applies; and
  - (b) a reference in the provisions to overdue rates and charges were a reference to the amount; and
  - (c) a reference in the provisions to a local government or the council were a reference to the charging entity; and
  - (d) a reference in the provisions to the chief executive officer of a local government or the council were a reference to the following—
    - (i) if the charging entity is MEDQ—MEDQ;
    - (ii) if the charging entity is a superseding public sector entity—the chief executive or chief executive officer of the entity.
- (6) For land on which a special rate or charge is levied, a reference in subsection (1), (2) or (3) to the owner of the land includes a reference to the occupier of the land.
- (7) In this section—

*local government overdue rates or charges provisions* means—





- (c) an existing or future PDA development application.

**120 Infrastructure agreements prevail if inconsistent with PDA development approval**

To the extent the infrastructure agreement is inconsistent with a PDA development approval the agreement prevails.

**121 Infrastructure agreement continues beyond cessation of priority development area**

- (1) This section applies if—
- (a) land ceases to be in, or to be PDA-associated land for, a priority development area; and
  - (b) an infrastructure agreement that applied to the land was in force immediately before the land ceased to be in, or to be PDA-associated land for, the priority development area; and
  - (c) MEDQ has elected not to continue to be a party to the agreement.
- (2) To the extent the infrastructure agreement applies to the land—
- (a) the superseding public sector entity for the land is taken to be a party to the agreement in place of MEDQ; and
  - (b) the rights and responsibilities of MEDQ under the agreement become the rights and responsibilities of the superseding public sector entity.
- (3) To remove any doubt, it is declared that sections 119 and 120 continue to apply to the infrastructure agreement.

**122 Consultation with public sector entities before entering into particular infrastructure agreements**

- (1) This section applies if a proposed infrastructure agreement would, if entered into, likely continue to apply to land after

the land ceases to be in, or to be PDA-associated land for, a priority development area.

- (2) Before entering into the proposed infrastructure agreement, MEDQ must consult about the terms of the agreement with the entities MEDQ considers will be superseding public sector entities for the land.

## **Part 8**

# **MEDQ's powers relating to priority development areas and PDA-associated development**

### **123 Application of local government entry powers for MEDQ's functions or powers**

- (1) This section applies to—
  - (a) land in, or a structure on, a priority development area or a lot adjoining the priority development area; or
  - (b) land or a structure the subject of PDA-associated development for a priority development area or a lot adjoining the land or structure.
- (2) The local government entry powers provisions apply to MEDQ and each authorised employee or agent of MEDQ as if—
  - (a) MEDQ were a local government; and
  - (b) the authorised employee or agent were an employee or agent of a local government; and
  - (c) a reference to the local government were a reference to MEDQ; and
  - (d) a reference to an employee or agent of the local government were a reference to an authorised employee or agent of MEDQ; and

- 
- (e) a reference in the sections to any of the following were a reference to the performance of MEDQ's functions or the exercise of its powers—
- (i) the exercise of the jurisdiction of local government;
  - (ii) the exercise of a power under a local government Act;
  - (iii) the exercise of the local government's jurisdiction;
  - (iv) local government purposes; and
- (f) a reference to the local government's facilities on the land were a reference to MEDQ's facilities on the land.
- (3) However, if the occupier of the land or structure is present at the place, before entering the place, an authorised employee or agent of MEDQ must do, or make a reasonable attempt to do, the following things—
- (a) identify himself or herself to the occupier, by complying with section 31;
  - (b) tell the occupier the purpose of the entry;
  - (c) seek the consent of the occupier to the entry;
  - (d) tell the occupier the employee or agent is permitted under this Act to enter the place without the occupier's consent.
- (4) If the occupier is not present, the employee or agent must take reasonable steps to advise the occupier of the employee's or agent's intention to enter the place.
- (5) Subsections (3) and (4) do not require the employee or agent to take a step that the employee or agent reasonably believes may frustrate or otherwise hinder the purposes of the entry.
- (6) In this section—

***authorised employee or agent***, of MEDQ, means an MEDQ employee or MEDQ agent who has, under section 30, been issued with an identity card that is still in force.

***local government entry powers provisions*** means—

- (a) for land outside the City of Brisbane—the *Local Government Act 2009*, sections 144, 146 and 147; or
- (b) for land in the City of Brisbane—the *City of Brisbane Act 2010*, sections 134, 136 and 137.

*lot* see the Sustainable Planning Act, section 10.

**MEDQ agent** means an agent of MEDQ.

**MEDQ employee** means an employee of the department whose services are made available to MEDQ under section 29.

## 124 Roads and road closures

- (1) MEDQ may perform functions or exercise powers for a road that MEDQ considers necessary or desirable to perform its other functions in relation to—
  - (a) a priority development area; or
  - (b) PDA-associated development for a priority development area.
- (2) Without limiting subsection (1), MEDQ may, by gazette notice, permanently or temporarily close all or part of a road.
- (3) Before the closing of the road takes effect, MEDQ must publish a notice MEDQ considers appropriate about the closure in a newspaper circulating in the relevant local government area.
- (4) Failure to comply with subsection (3) does not invalidate the closure.
- (5) MEDQ may do everything necessary to stop traffic using a road or part of a road closed under this section.
- (6) To remove any doubt, it is declared that this section applies—
  - (a) whether or not a road is a State-controlled road under the *Transport Infrastructure Act 1994*; and
  - (b) whether or not the *Land Act 1994* applies to a road.

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**125 Vesting land in permanently closed road or unallocated State land in MEDQ**

- (1) MEDQ may, by gazette notice, declare any of the following is vested in MEDQ, in fee simple—
  - (a) any land that comprised a road under the *Land Act 1994* that has been permanently closed under section 124;
  - (b) unallocated State land in a priority development area.
- (2) The chief executive of the department in which the *Land Act 1994* is administered must, under that Act, register the vesting if MEDQ lodges in the land registry under that Act—
  - (a) a request under that Act to register the vesting; and
  - (b) if that chief executive so requires—a plan of subdivision under that Act for the land the subject of the vesting; and
  - (c) a copy of the gazette notice.
- (3) On the registration of the request to vest, the Governor in Council may issue to MEDQ a deed of grant under the *Land Act 1994* for the land the subject of the vesting.
- (4) Despite the *Land Act 1994* and the *Land Title Act 1994*, no fee is payable by MEDQ in relation to the registration of the vesting or to give effect to it.

**126 Giving information about roads to relevant local government**

- (1) This section applies if, under this chapter, MEDQ performs a function or exercises a power relating to a road or former road.
- (2) MEDQ must give the relevant local government the information MEDQ has to allow the local government to comply with its obligation for its map and register of roads under the *Local Government Act 2009*, section 74 or, for the Brisbane City Council, the *City of Brisbane Act 2010*, section 81.

**127 Direction to government entity or local government to accept transfer**

- (1) MEDQ may give a government entity or local government (the *directed entity*) a written direction to accept the transfer to it of—
  - (a) stated land in a priority development area, or stated PDA-associated land for a priority development area, owned by MEDQ; or
  - (b) a stated amount from the Fund for providing or maintaining infrastructure relating to stated land in a priority development area, or stated PDA-associated land for a priority development area, owned by MEDQ.
- (2) However, the direction may be given only if MEDQ is satisfied the transfer is reasonably necessary for the purpose of this Act.
- (3) The direction may state conditions on which the transfer must be made.
- (4) The directed entity must do every thing reasonably necessary to comply with the direction.
- (5) If the directed entity is a local government, on the making of the transfer, the stated land is taken to be land that the local government holds on trust in fee simple to which the Sustainable Planning Act, section 678 applies.

**128 Direction to government entity or local government to provide or maintain infrastructure**

- (1) MEDQ may give a written direction to a government entity or local government (the *directed entity*) to provide or maintain stated infrastructure in, or relating to, a stated priority development area.
- (2) However, the direction may be given only if MEDQ is satisfied the provision or the maintenance of the infrastructure by the directed entity is necessary for the proper and orderly planning, development and management of the priority development area.

- (3) The direction may state conditions on which the infrastructure must be provided or maintained.
- (4) The directed entity must comply with the direction.
- (5) Subsection (4) applies despite any other Act or law.

## **Part 9                      Fees**

### **129      Application fees**

- (1) This section applies if MEDQ is deciding the fee for an application under this chapter.
- (2) The fee can not be more than the actual cost of considering and processing the application.
- (3) However, for the following applications the fee may also include a reasonable component to recover MEDQ's costs of making or amending the relevant development instrument—
  - (a) a PDA development application;
  - (b) an application under section 99 to change a PDA development approval.

## **Chapter 4            Establishment etc. of other entities**

### **Part 1                Economic Development Board**

#### **Division 1           Establishment and functions**

##### **130    Establishment**

The Economic Development Board is established.

##### **131    Board's functions**

- (1) The functions of the board are—
  - (a) advising, and making recommendations to, MEDQ about how MEDQ can give effect to the main purpose of this Act; and
  - (b) monitoring, and reporting to MEDQ about, the performance of MEDQ's functions or exercise of MEDQ's powers by entities (including the board) to whom the functions or powers are delegated; and
  - (c) ensuring MEDQ adopts best practice corporate governance and financial management and accountability arrangements; and
  - (d) performing the functions, and exercising the powers, of MEDQ delegated to the board under this Act.
- (2) The board may do all things necessary or convenient to be done for the performance of its functions.



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## Division 2                      Membership

### 132      Membership of the board

- (1) The board consists of the following persons (each a *board member*)—
  - (a) the chief executive of the department;
  - (b) the chief executive of the department in which the *Auditor-General Act 2009* is administered;
  - (c) the chief executive of the department in which the *Financial Accountability Act 2009* is administered;
  - (d) no more than 3 other members appointed by the Governor in Council.
- (2) A person is eligible for appointment under subsection (1)(d) only if the person—
  - (a) has extensive knowledge of and experience in 1 or more of the following—
    - (i) local government;
    - (ii) land use planning;
    - (iii) social policy or community development;
    - (iv) law, economics or accounting;
    - (v) the construction or development industries;
    - (vi) natural resource and environmental management;or
  - (b) has other knowledge and experience the Governor in Council considers appropriate.
- (3) A member appointed under subsection (1)(d) may be appointed on a full-time or part-time basis.
- (4) A member appointed under subsection (1)(d) is appointed under this Act and not the *Public Service Act 2008*.

### **133 Chairperson and deputy chairperson**

- (1) The chief executive of the department is the chairperson of the board.
- (2) MEDQ must appoint a board member, other than the chairperson, as the deputy chairperson.
- (3) Subject to subsection (4), the deputy chairperson holds that office for the term decided by MEDQ.
- (4) A vacancy occurs in the office of deputy chairperson if the person holding the office stops being a board member or resigns the office.
- (5) A person holding office as deputy chairperson resigns the office by signed notice of resignation given to MEDQ.
- (6) A person's resignation from the office of deputy chairperson does not, of itself, stop the person from being a board member.
- (7) The deputy chairperson is to act as chairperson during a period when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

### **134 Terms and conditions of appointment etc.**

- (1) Subject to subsections (5) and (6), an appointed board member holds office for the term stated in the member's instrument of appointment.
- (2) The term stated in the instrument of appointment must not be more than 5 years.
- (3) An appointed board member is to be paid the remuneration and allowances decided by the Governor in Council.
- (4) An appointed board member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.
- (5) An appointed board member may resign by signed notice given to MEDQ.

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- (6) The Governor in Council may end an appointed board member's appointment if the member—
- (a) is convicted of an indictable offence; or
  - (b) is or becomes an insolvent under administration under the Corporations Act, section 9; or
  - (c) is disqualified from managing corporations under the Corporations Act, part 2D.6; or
  - (d) becomes incapable of performing the functions of a board member because of physical or mental incapacity or some other reason; or
  - (e) is guilty of misconduct of a type that could warrant dismissal from the public service if the member were an officer of the public service; or
  - (f) does not comply with section 135(2) or (3); or
  - (g) does not comply with section 161; or
  - (h) fails to comply with section 163.
- (7) In this section—

*appointed board member* means a board member appointed under section 132(1)(d).

## 135 Disclosure of interests

- (1) This section applies if—
- (a) a board member, or a close relative of a board member, has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the board; and
  - (b) the interest could conflict with the proper performance of the board member's functions for the matter.
- (2) The board member must, as soon as practicable, disclose the interest to—
- (a) for the chairperson—all the other members; or
  - (b) for another member—the chairperson.

Maximum penalty—100 penalty units.

- (3) If a board member has disclosed an interest relating to a matter, the member must not participate in the board's consideration of the matter.

Maximum penalty—100 penalty units.

## **Division 3                      Meetings and other business of the board**

### **136      Conduct of business**

Subject to this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

### **137      Times and places of meetings**

- (1) Board meetings are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked in writing to do so by at least 2 board members.
- (3) Also, the chairperson must call a meeting at least once in each quarter.

### **138      Quorum**

A quorum for a board meeting is more than half of the number of board members.

### **139      Attendance by proxy**

- (1) A board member may attend a meeting of the board by proxy.
- (2) A board member is not entitled to preside at a meeting of the board merely because the member is the proxy holder for the chairperson or deputy chairperson.

#### **140 Presiding at meetings**

- (1) The chairperson is to preside at all board meetings at which the chairperson is present.
- (2) If the chairperson is not present, the deputy chairperson is to preside.
- (3) If the chairperson and deputy chairperson are both not present, the board member chosen by the board members present is to preside.

#### **141 Conduct of meetings**

- (1) The board may hold meetings, or allow board members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.
- (2) A person who takes part in a board meeting under subsection (1) is taken to be present at the meeting.
- (3) A decision at a board meeting must be a majority decision of the board members present.
- (4) If the votes of the board members present at the board meeting are equal, the member presiding has a casting vote.

#### **142 Decisions outside meetings**

A decision of the board, other than a decision at a board meeting, may be made only with the written agreement of a majority of the board members.

#### **143 Minutes and record of decisions**

The board must keep—

- (a) minutes of its meetings; and
- (b) a record of any decisions under section 142.

## **Part 2**                                      **Commonwealth Games Infrastructure Authority**

### **Division 1**                                **Establishment and functions**

#### **144**     **Establishment of authority**

The Commonwealth Games Infrastructure Authority (the *authority*) is established.

#### **145**     **Authority's functions**

- (1) The main function of the authority is to facilitate, for the purpose of the Commonwealth Games and this Act, the planning and development of the Commonwealth Games village and other venues.
- (2) Without limiting subsection (1), the authority's functions include—
  - (a) advising, and making recommendations to, MEDQ and the board about giving effect to the main purpose of this Act in relation to the authority's main function; and
  - (b) performing the functions, and exercising the powers, of MEDQ delegated to the authority under this Act; and
  - (c) performing any other functions, and exercising any other powers, delegated to the authority under this Act or another Act; and
  - (d) reporting to MEDQ and the board about the authority's performance of its functions under this Act.
- (3) The authority may do all things necessary or convenient to be done for the performance of its functions.
- (4) In this section—

*Commonwealth Games* means the XXI Commonwealth Games to be held at the Gold Coast in 2018.

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*Commonwealth Games village* means the infrastructure known as the ‘games village’ that is used, or to be used, for the Commonwealth Games, including, for example—

- (a) accommodation facilities for athletes and officials; and
- (b) infrastructure for other facilities and services associated with the Commonwealth Games.

## Division 2                      Membership

### 146      Membership of the authority

- (1) The authority consists of the following persons (each an *authority member*)—
  - (a) the chief executive of the department;
  - (b) the chief executive of the department in which the *Commonwealth Games Arrangements Act 2011* is administered;
  - (c) the following members appointed by the Governor in Council—
    - (i) the chief executive officer of the Gold Coast City Council;
    - (ii) the chairperson of the Gold Coast 2018 Commonwealth Games Corporation;
    - (iii) the other members the Governor in Council considers appropriate.
- (2) A person is eligible for appointment under subsection (1)(c)(iii) only if the person—
  - (a) has extensive knowledge of and experience in 1 or more of the following—
    - (i) local government;
    - (ii) planning;
    - (iii) community development;

- (iv) law, economics or accounting;
  - (v) the construction or development industries;
  - (vi) natural resource or environmental management; or
- (b) has other knowledge and experience the Governor in Council considers appropriate.
- (3) A member appointed under subsection (1)(c) may be appointed on a full-time or part-time basis.
- (4) A member appointed under subsection (1)(c) is appointed under this Act and not the *Public Service Act 2008*.
- (5) In this section—

***Gold Coast 2018 Commonwealth Games Corporation*** means the Gold Coast 2018 Commonwealth Games Corporation established under the *Commonwealth Games Arrangements Act 2011*, section 6.

## **147 Chairperson and deputy chairperson**

- (1) MEDQ must appoint an authority member as the chairperson.
- (2) MEDQ must appoint an authority member, other than the chairperson, as the deputy chairperson.
- (3) Subject to subsection (4), the chairperson or deputy chairperson holds that office for the term decided by MEDQ.
- (4) A vacancy occurs in the office of chairperson or deputy chairperson if the person holding the office stops being an authority member or resigns the office.
- (5) A person holding office as chairperson or deputy chairperson resigns the office by signed notice of resignation given to MEDQ.
- (6) A person's resignation from the office of chairperson or deputy chairperson does not, of itself, stop the person from being an authority member.
- (7) The deputy chairperson is to act as chairperson during a period when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.



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**148 Terms and conditions of appointment etc.**

- (1) Subject to subsections (4) and (5), an appointed authority member holds office for the term stated in the member's instrument of appointment.
- (2) An appointed authority member is to be paid the remuneration and allowances decided by the Governor in Council.
- (3) An appointed authority member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.
- (4) An appointed authority member may resign by signed notice given to MEDQ.
- (5) The Governor in Council may end an appointed authority member's appointment if the member—
  - (a) is convicted of an indictable offence; or
  - (b) is or becomes an insolvent under administration under the Corporations Act, section 9; or
  - (c) is disqualified from managing corporations under the Corporations Act, part 2D.6; or
  - (d) becomes incapable of performing the functions of an authority member because of physical or mental incapacity or some other reason; or
  - (e) is guilty of misconduct of a type that could warrant dismissal from the public service if the member were an officer of the public service; or
  - (f) does not comply with section 149(2) or (3); or
  - (g) does not comply with section 161; or
  - (h) fails to comply with section 163.
- (6) In this section—

***appointed authority member*** means an authority member appointed under section 146(1)(c).

## **149 Disclosure of interests**

- (1) This section applies if—
  - (a) an authority member, or a close relative of an authority member, has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the authority; and
  - (b) the interest could conflict with the proper performance of the authority member's functions for the matter.
- (2) The authority member must, as soon as practicable, disclose the interest to—
  - (a) for the chairperson—all the other authority members; or
  - (b) for another member—the chairperson.

Maximum penalty—100 penalty units.

- (3) If an authority member has disclosed an interest relating to a matter, the member must not participate in the authority's consideration of the matter.

Maximum penalty—100 penalty units.

## **Division 3 Meetings and other business of the authority**

### **150 Conduct of business**

Subject to this division, the authority may conduct its business, including its meetings, in the way it considers appropriate.

### **151 Times and places of meetings**

- (1) Authority meetings are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked in writing to do so by at least 2 authority members.

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- (3) Also, the chairperson must call a meeting at least once in each quarter.

## **152 Quorum**

A quorum for an authority meeting is more than half of the number of authority members.

## **153 Attendance by proxy**

- (1) An authority member may attend a meeting of the authority by proxy.
- (2) An authority member is not entitled to preside at a meeting of the authority merely because the member is the proxy holder for the chairperson or deputy chairperson.

## **154 Presiding at meetings**

- (1) The chairperson is to preside at all authority meetings at which the chairperson is present.
- (2) If the chairperson is not present, the deputy chairperson is to preside.
- (3) If the chairperson and the deputy chairperson are both not present, the authority member chosen by the authority members present is to preside.

## **155 Conduct of meetings**

- (1) The authority may hold meetings, or allow authority members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.
- (2) A person who takes part in an authority meeting under subsection (1) is taken to be present at the meeting.
- (3) A decision at an authority meeting must be a majority decision of the authority members present.

- (4) If the votes of the authority members present at the authority meeting are equal, the member presiding has a casting vote.

### **156 Decisions outside meetings**

A decision of the authority, other than a decision at an authority meeting, may be made only with the written agreement of a majority of the authority members.

### **157 Minutes and record of decisions**

The authority must keep—

- (a) minutes of its meetings; and
- (b) a record of any decisions under section 156.

## **Part 3 Local representative committees**

### **158 Establishment**

- (1) MEDQ may establish a committee (a *local representative committee*) for an area to help MEDQ, or its delegates, perform MEDQ's functions in the area.
- (2) A local representative committee consists of the following persons appointed by MEDQ—
  - (a) a board member;
  - (b) no more than 4 other persons who MEDQ considers can appropriately represent the interests of entities affected by development in the area, including, for example, a chief executive officer of a local government.
- (3) A member of a local representative committee is appointed on the terms and conditions MEDQ considers appropriate, including terms about remuneration.

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- (4) A local representative committee may conduct its business, including its meetings, in the way it considers appropriate.

## **159 Functions**

- (1) The functions of a local representative committee for an area are—
- (a) advising, and making recommendations to, MEDQ and the board about—
    - (i) the impact, or potential impact, of proposed development in the area, including, for example, the impact or potential impact on the environment or public amenity; and
    - (ii) community needs and expectations in the area; and
  - (b) performing the functions, and exercising the powers, of MEDQ delegated to the committee under this Act; and
  - (c) reporting to MEDQ and the board about the committee's performance of its functions under this Act.
- (2) A local representative committee may do all things necessary or convenient to be done for the performance of its functions.

## **Part 4 Provisions applying to members**

### **160 Report about person's criminal history for particular appointments**

- (1) To decide whether to recommend to the Governor in Council a person for appointment as a board member under section 132(1)(d) or an authority member under section 146(1)(c)(iii), MEDQ may ask the commissioner of the police service for—
- (a) a written report about the person's criminal history; and

- (b) a brief description of the circumstances of any conviction mentioned in the criminal history.
- (2) The commissioner of the police service must comply with a request under subsection (1).
- (3) However, MEDQ may make a request about a person under subsection (1) only if the person has given MEDQ written consent for the request.
- (4) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) MEDQ must ensure a report given to MEDQ under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (6) MEDQ may delegate its power under this section to an appropriately qualified public service officer.
- (7) In this section—

*criminal history*, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than for a spent conviction.

*spent conviction* means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

## **161 Duty to act honestly and exercise care and diligence**

- (1) A board member, authority member or committee member must act honestly, and must exercise a reasonable degree of care and diligence, when performing the member's functions and exercising the member's powers.

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- (2) A person who is or was a board member, authority member or committee member must not make improper use of information acquired because of the person's position as a board member, authority member or committee member—
- (a) to gain, directly or indirectly, an advantage for the person or for any other person; or
  - (b) to cause detriment to MEDQ.
- (3) A board member, authority member or committee member must not make improper use of the member's position as a member—
- (a) to gain, directly or indirectly, an advantage for the member or for any other person; or
  - (b) to cause detriment to MEDQ.
- (4) This section—
- (a) has effect in addition to, and not in derogation of, any law relating to the civil or criminal liability of a person because of the person's office as a board member, authority member or committee member; and
  - (b) does not prevent the starting of a civil or criminal proceeding in respect of civil or criminal liability.

*Note—*

See also section 171 (Protection from civil liability).

## **162 MEDQ may bring proceedings**

- (1) If a board member, authority member or committee member contravenes section 161, MEDQ may recover from the member as a debt due to MEDQ either or both of the following—
- (a) if the member or any other person made a profit as a result of the contravention—an amount equal to the profit;
  - (b) if MEDQ has suffered loss or damage as a result of the contravention—an amount equal to the loss or damage.

- (2) A proceeding mentioned in subsection (1) may be—
  - (a) brought in the name of MEDQ; and
  - (b) started in a court of competent jurisdiction.

## Chapter 5      General

### Part 1            Other offences

#### 163    Privacy

- (1) This section applies to a person who—
  - (a) is, or has been, a person performing functions or exercising powers under this Act; and
  - (b) obtains in the course of, or because of, the performance of a function or exercise of a power under this Act, personal or confidential information that is not publicly available.
- (2) The person must not—
  - (a) make a record of the information; or
  - (b) divulge or communicate the information to anyone else, whether directly or indirectly; or
  - (c) use the information to benefit any person.

Maximum penalty—100 penalty units.
- (3) However, subsection (2) does not apply if the record is made, or the information is divulged, communicated or used—
  - (a) for, or as a part of, a function of MEDQ; or
  - (b) with the consent of the person to whom the information relates; or
  - (c) as required by law.



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**164 Liability of executive officer for particular offences committed by corporation**

- (1) An executive officer of a corporation commits an offence if—
- (a) the corporation commits an offence against an executive liability provision; and
  - (b) the officer does not take all reasonable steps to ensure the corporation does not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the executive liability provision by an individual.

- (2) In deciding whether things done or omitted to be done by an executive officer of a corporation constitute reasonable steps for subsection (1)(b), the court may have regard to—
- (a) whether the officer knew, or ought reasonably to have known, of the corporation’s conduct constituting the offence against the executive liability provision; and
  - (b) whether the officer was in a position to influence the corporation’s conduct in relation to the offence against the executive liability provision; and
  - (c) any other relevant matter.
- (3) The executive officer may be proceeded against for, and convicted of, an offence against subsection (1) whether or not the corporation has been proceeded against for, or convicted of, an offence against the executive liability provision.
- (4) This section does not affect the following—
- (a) the liability of the corporation for an offence against the executive liability provision;
  - (b) the liability, under chapter 2 of the Criminal Code, of any person, whether or not the person is an executive officer of the corporation, for an offence against the executive liability provision.
- (5) In this section—

*executive liability provision* means any of the following provisions—

- (a) section 73(1);
- (b) section 74;
- (c) section 75;
- (d) section 76;
- (e) section 110;
- (f) section 112.

*Note—*

- section 73 (Carrying out PDA assessable development without PDA development permit)
- section 74 (PDA self-assessable development must comply with relevant development instrument)
- section 75 (Compliance with PDA development approval)
- section 76 (Offence about use of premises)
- section 110 (Offence to contravene enforcement order)
- section 112 (Offence to contravene Magistrates Court order)

*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 office.

## **165 Giving MEDQ a false or misleading document**

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

Maximum penalty—1665 penalty units.

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## Part 2 Proceedings

### 166 Proceedings for offences

- (1) An offence against the following is a misdemeanour—
  - (a) section 110;
  - (b) section 164, to the extent the offence relates to an offence by a corporation against section 110.
- (2) Any other offence against this Act is a summary offence.
- (3) A proceeding for a summary offence against this Act may be brought only by MEDQ or a person acting for MEDQ.

### 167 Limitation on time for starting proceeding for summary offence

A proceeding for a summary offence against this Act must start—

- (a) within 1 year after the commission of the offence; or
- (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed.

### 168 Evidentiary aids

A certificate purporting to be signed by or for MEDQ stating any of the following matters is evidence of the matter—

- (a) a decision, direction or notice under this Act or the repealed ULDA Act;
- (b) a thing that must or may be included in a register kept under this Act;
- (c) that a stated document is another document kept under this Act;
- (d) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);



under subsection (1) to an appropriately qualified officer or employee of the department.

- (3) The board may, with MEDQ's approval, subdelegate a function or power of MEDQ delegated to it under subsection (1) to the authority.
- (4) A local government may subdelegate a function or power of MEDQ delegated to it under subsection (1) to an appropriately qualified employee of the local government.
- (5) However, subsection (4) does not apply to a function or power if MEDQ has, when delegating the function or power to the local government, directed that the function or power can not be subdelegated.
- (6) A board member or authority member may delegate the member's functions as a member to an appropriately qualified officer or employee of a department.

## **170 MEDQ may give directions**

- (1) An entity to whom a function or power is delegated under section 169 must perform the function or exercise the power subject to—
  - (a) the general direction and control of MEDQ; and
  - (b) any specific written directions given to it by MEDQ.
- (2) Without limiting subsection (1)(b), a direction under that provision may require the entity to give stated information to MEDQ.

## **171 Protection from civil liability**

- (1) A prescribed person carrying out functions, or exercising powers, under this Act is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act or a direction or a requirement under this Act.

*Note—*

In relation to a person who is or was a board member, authority member or committee member, see also section 161 (Duty to act honestly and exercise care and diligence).

- (2) If subsection (1) prevents a civil liability attaching to the member or person, the liability attaches instead to the State.
- (3) In this section—

***prescribed person*** means—

  - (a) a board member, authority member or committee member; or
  - (b) another person to whom a function or power has been delegated under section 169.

## **Part 4                      Other administrative matters**

### **172      Registers**

- (1) MEDQ must keep a register of each of the following—
  - (a) provisional land use plans, as amended from time to time;
  - (b) interim land use plans, as amended from time to time;
  - (c) each proposed development scheme or proposed amendments of development schemes under chapter 3, part 3;
  - (ca) the following information about PDA-associated development for a priority development area—
    - (i) a description of the development, including plans and supporting documentation;
    - (ii) whether the development was declared by MEDQ under section 40C(1) or identified in the relevant development instrument for the area;

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- (iii) a description of the land on which the development is, or is proposed to be, located;
  - (cb) declarations made by MEDQ under section 40C(1);
  - (d) reports on development schemes under section 63(2);
  - (e) development schemes that have taken effect;
  - (f) PDA development applications;
  - (g) PDA development approvals;
  - (h) by-laws;
  - (i) special rates and charges;
  - (j) infrastructure expenses recoupment charges;
  - (k) directions given under sections 127 and 128.
- (2) MEDQ may also keep a register of other documents or information relating to this Act that MEDQ considers appropriate.
- (3) MEDQ may keep a register in the way it considers appropriate.
- (4) However, the documents included in the registers must also be published on the department's website.

### **173 Access to registers**

- (1) MEDQ must—
- (a) keep each register open for inspection by the public during office hours on business days at the places MEDQ considers appropriate; and
  - (b) allow a person to search and take extracts from the register; and
  - (c) give a person who asks for it a copy of all or part of a document or information held in the register, on payment of the fee decided by MEDQ.
- (2) The fee can not be more than the actual cost of giving the copy.

**174 Matters to be included in department's annual report**

- (1) The chief executive must ensure the department's annual report for a financial year includes information about the performance of MEDQ's functions in the year.
- (2) Without limiting subsection (1), the report must include—
  - (a) information about how the board, the authority or local representative committees have contributed to the achievement of MEDQ's functions; and
  - (b) any other matter prescribed under a regulation.
- (3) In this section—

*annual report* means annual report under the *Financial Accountability Act 2009*.

**175 Approved forms**

MEDQ may approve forms for use under this Act.

**176 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—
  - (a) provide for any matter for which by-laws may be made;  
or
  - (b) impose a penalty of no more than 20 penalty units for contravention of a regulation.



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## Chapter 6 Transitional provisions and repeals for Act No. 43 of 2012

### Part 1 Preliminary

#### 177 Definitions for ch 6

In this chapter—

*commencement* means the commencement of this section.

*former entity* means—

- (a) the corporation established under the repealed ID Act, section 5; or
- (b) the former ULDA.

*former ULDA* means the authority established under the repealed ULDA Act, section 93.

*transitioned UDA* means a part of the State that was an urban development area under the repealed ULDA Act and, under section 190, is taken to be a priority development area under this Act.

### Part 2 Abolition of former entities and transfer of their assets etc.

#### 178 Abolition of former entity etc.

- (1) At the commencement—
  - (a) each former entity is abolished; and
  - (b) the members of the former ULDA stop being members of the authority; and

- (c) the appointment and employment of the chief executive officer of the former ULDA ends.
- (2) Subsection (1)(b) or (c) does not affect the member's or chief executive officer's appointment in any other office.

**179 Employees of former ULDA to be employed by department**

- (1) This section applies to a person who, immediately before the commencement, was employed by the former ULDA.
- (2) From the commencement, the person is taken to be employed by the department on the same terms, conditions and entitlements as those applying to the person's employment by the former ULDA immediately before commencement.
- (3) Also, the following applies for the person—
  - (a) the person retains and is entitled to all rights, benefits and entitlements that have accrued to the person because of the person's previous employment as an employee of the former ULDA;
  - (b) the person's accruing rights, including to superannuation or recreation, sick, long service or other leave, are not affected;
  - (c) continuity of service is not interrupted, except that the person is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service;
  - (d) the employment does not constitute a termination of employment or a retrenchment or redundancy;
  - (e) the person is not entitled to a payment or other benefit because he or she is no longer employed by the former ULDA.
- (4) Subject to this section, the chief executive may issue a direction to a person to facilitate the transition of employees from the former ULDA to the department.
- (5) A person given a direction must comply with the direction.

- (6) If a person employed under subsection (2) was employed by the former ULDA under a contract, the person is taken to be employed by the department under the contract under which the person was employed before the commencement.
- (7) In this section—  
*employee*, of the former ULDA, does not include the chief executive officer appointed under the repealed ULDA Act, section 120.

### **180 MEDQ is legal successor**

- (1) MEDQ is the successor in law of each former entity.
- (2) Subsection (1) is not limited by another provision of this part.

### **181 Assets and liabilities etc. of a former entity**

- (1) At the commencement—
  - (a) the assets and liabilities of a former entity immediately before the commencement become assets and liabilities of MEDQ; and
  - (b) any infrastructure agreements, contracts, leases, licences, undertakings or other agreements or arrangements to which a former entity is a party, in force immediately before the commencement—
    - (i) are taken to have been entered into by MEDQ; and
    - (ii) may be enforced against or by MEDQ; and

*Example of another arrangement—*

an arrangement under which the former ULDA was able to borrow an amount from another statutory body, for example, the Queensland Treasury Corporation

- (c) any property that, immediately before the commencement, was held on trust or subject to a condition, by a former entity continues to be held on the same trust, or subject to the same condition, by MEDQ.

- (2) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by MEDQ, record the vesting of property under this section in MEDQ.

### **182 Proceeding not yet started by or against a former entity**

- (1) This section applies if, immediately before the commencement, a proceeding could have been started by or against a former entity within a particular period (the *prescribed period*).
- (2) The proceeding may be started by or against MEDQ within the prescribed period.

### **183 Proceeding to which a former entity was a party**

- (1) This section applies to a proceeding that, immediately before the commencement, had not ended and to which a former entity was a party.
- (2) At the commencement, MEDQ becomes a party to the proceeding in place of the former entity.

### **184 Records of former entity**

All records of a former entity are records of MEDQ under this Act.

### **185 References to former entity and former entity's website**

- (1) In an Act or document, a reference to a former entity is taken, if the context permits, to be a reference to MEDQ.
- (2) In an Act or document, a reference to a former entity's website is taken, if the context permits, to be a reference to the department's website.

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**186 Amounts in Estates Construction Fund at the commencement**

The amount that, immediately before the commencement, is the balance credited to the Estates Construction Fund under the repealed ID Act forms part of the fund continued in existence under section 25.

**187 Annual reporting**

- (1) This section applies if the commencement falls in the middle of a financial year.
- (2) The department's annual report for the financial year must include information about the former entity's operations that would have been required to be included in the department's annual report if the repealed IDA Act and repealed ULDA Act had not been repealed.
- (3) In this section—  
*annual report* means annual report under the *Financial Accountability Act 2009*.

**188 Offences relating to former entity**

- (1) This section applies if—
  - (a) under a provision of an Act, as in force before the commencement (*relevant law*), a person who did or omitted to do an act in relation to a former entity, or something done or required to be done by a former entity, committed an offence; and
  - (b) the provision is—
    - (i) amended by this Act so that it no longer applies in relation to the former entity, or something done or required to be done by the former entity; or
    - (ii) repealed by this Act.
- (2) A proceeding for the offence may be continued or started, and the provisions of the relevant law that are necessary or

convenient to be used in relation to the proceeding continue to apply, as if this Act had not commenced.

- (3) For subsection (2), the *Acts Interpretation Act 1954*, section 20 applies, but does not limit the subsection.
- (4) Subsection (2) applies despite the Criminal Code, section 11.

### **189 Other things done by former entity**

- (1) This section applies to anything done by a former entity under an Act—
  - (a) whose effect had not ended immediately before the commencement; and
  - (b) that, at the commencement, is something that MEDQ can do under that Act; and
  - (c) that is not otherwise dealt with by a provision of this part.
- (2) The thing done by the former entity—
  - (a) continues to have effect; and
  - (b) from the commencement, is taken to have been done by MEDQ.
- (3) Without limiting subsection (2)—
  - (a) the performance of a function or exercise of a power under the repealed ULDA Act, section 99 that is still in effect immediately before the commencement is, from the commencement, taken to have been performed or exercised by MEDQ under section 124 of this Act; and
  - (b) a special rate or charge on land made and levied under the repealed ULDA Act, section 101 that has not been paid immediately before the commencement is, from the commencement, taken to be made and levied by MEDQ under section 115 of this Act; and
  - (c) a notice given by the former ULDA for a special rate or charge under the repealed ULDA Act, section 127 that has not been complied with immediately before the

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commencement is taken to have been given by MEDQ under section 117 of this Act; and

- (d) any consultation conducted by the former ULDA under the repealed ULDA Act, section 136E before the commencement is taken to have been conducted by MEDQ under section 122 of this Act; and
- (e) a request made by the former ULDA under the repealed ULDA Act, section 139 that has not been complied with at the commencement is taken to be made by MEDQ under section 52 of this Act; and
- (f) an endorsement, approval or decision (however called) given or made by a former entity, that is of a kind that MEDQ can give or make under an Act as in force at the commencement, is taken to have been given or made by MEDQ.

*Examples for paragraph (f)—*

- endorsements given by the former ULDA under the *Body Corporate and Community Management 1997*, section 60
- approvals of plans of subdivision given by the former ULDA under the repealed ULDA Act, section 80

## Part 3 Existing urban development areas

### 190 Existing urban development areas

- (1) A part of the State that was an urban development area under the repealed ULDA Act immediately before the commencement is, from the commencement, taken to be a priority development area under this Act.
- (2) A transitioned UDA may keep the name given to it under the repealed ULDA Act.

- (3) The operation of subsection (1) is not affected by the transitioned UDA having a name that includes the term 'urban development area' or 'UDA'.

## **191 Existing interim land use plans for transitioned UDAs**

- (1) This section applies if an interim land use plan made under the repealed ULDA Act for a transitioned UDA was in effect immediately before the commencement.
- (2) From the commencement, the interim land use plan is taken to be an interim land use plan made under this Act for the transitioned UDA.
- (3) The interim land use plan applies with necessary and convenient changes to facilitate the application of this Act to the transitioned UDA.
- (4) Without limiting subsection (3)—
  - (a) a reference in the interim land use plan to the former ULDA is taken to be a reference to MEDQ; and
  - (b) a reference in the interim land use plan to urban development area is taken to be a reference to a transitioned UDA; and
  - (c) a reference in the interim land use plan to any of the following terms is taken to be a reference to the corresponding term under this Act for priority development areas—
    - (i) UDA assessable development;
    - (ii) UDA self-assessable development;
    - (iii) UDA exempt development;
    - (iv) UDA development application;
    - (v) UDA development approval;
    - (vi) UDA preliminary approval;
    - (vii) UDA development permit;
    - (viii) UDA development condition.



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- (5) The interim land use plan expires—
- (a) subject to paragraph (b), on the day it would have expired under the repealed ULDA Act, section 9 if that section had not been repealed; or
  - (b) if the former ULDA had prepared a proposed development scheme for the transitioned UDA, under the repealed ULDA Act, part 3, division 1—the earlier of the following—
    - (i) when MEDQ makes a development scheme under this Act for the transitioned UDA;
    - (ii) 60 business days after the commencement.
- (6) Without limiting subsection (2), the interim land use plan may be amended or revoked under this Act.
- (7) The interim land use plan may keep the name given to it under the repealed ULDA Act.
- (8) The operation of this section is not affected by the interim land use plan having a name that includes the term ‘urban development area’ or ‘UDA’.

## **192 MEDQ must make development scheme for transitioned UDA**

- (1) This section applies if, at the commencement, a development scheme has not been made under the repealed ULDA Act for a transitioned UDA.
- (2) Subject to subsection (3), MEDQ must make a development scheme under this Act for the transitioned UDA.
- (3) For subsection (2), anything done or in existence in relation to a proposed development scheme under the repealed ULDA Act for the transitioned UDA is taken to have been done or in existence under this Act.
- (4) If, under subsection (3), MEDQ is taken to have complied with sections 58 to 61 for a proposed development scheme (the *proposed scheme*)—

- (a) MEDQ must, as soon as practicable after the commencement, give each person (a *submitter*) who made a submission received within the submission period about the proposed scheme a notice stating that—
    - (i) MEDQ is considering making the proposed scheme under this Act; and
    - (ii) MEDQ’s report about the proposed scheme can be inspected on the department’s website; and
    - (iii) if the submitter is an affected owner for the transitioned UDA—that the submitter may, within 20 business days after receiving the notice, ask MEDQ to amend the proposed scheme to protect the owner’s interests; and
  - (b) MEDQ may, within the prescribed period, amend the proposed scheme in a way MEDQ considers appropriate, including, for example, to—
    - (i) protect an affected owner’s interests; or
    - (ii) ensure the implementation of the scheme complies with this Act; or
    - (iii) make a minor administrative amendment; and
  - (c) if MEDQ considers an amendment of the proposed scheme significantly changes the scheme, MEDQ must re-comply with sections 58 to 61 for the amended scheme.
- (5) For subsection (4)(b), the *prescribed period* is as follows—
- (a) 45 business days after the notice is given under subsection (4)(a);
  - (b) if, within 20 business days after being given the notice under subsection (4)(a), an affected owner for the transitioned UDA asks MEDQ to amend the proposed scheme to protect the affected owner’s interests and MEDQ requires additional time to consider a matter raised by the affected owner—the period mentioned in

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paragraph (a) plus a further period of not more than 20 business days decided by MEDQ;

- (c) if a caretaker period occurs within the period mentioned in paragraph (a)—that period plus a further period equal to the caretaker period plus 20 business days.
- (6) In this section—

***affected owner***, for a priority development area, means a person who owns land that—

- (a) is in the area; or
- (b) shares a common boundary with the area; or
- (c) is benefited by an easement, registered under the *Land Title Act 1994*, over the area or part of the area; or
- (d) has a boundary, along a road, that is directly opposite a boundary of the area, along the same road; or
- (e) MEDQ considers may be negatively affected by development in the area having regard to—
- (i) the proximity of the land to the area; and
- (ii) the impact the development, including any proposed development, may have on the character and amenity of the land.

### **193 Existing development schemes for transitioned UDAs**

- (1) This section applies if a development scheme made under the repealed ULDA Act for a transitioned UDA was in effect immediately before the commencement.
- (2) From the commencement, the development scheme is taken to be a development scheme made under this Act for the transitioned UDA.
- (3) The development scheme applies with necessary and convenient changes to facilitate the application of this Act to the transitioned UDA.
- (4) Without limiting subsection (3)—

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- (a) a reference in the development scheme to the former ULDA is taken to be a reference to MEDQ; and
- (b) a reference in the development scheme to urban development area is taken to be a reference to a transitioned UDA; and
- (c) a reference in the development scheme to any of the following terms is taken to be a reference to the corresponding term under this Act for priority development areas—
  - (i) UDA assessable development;
  - (ii) UDA self-assessable development;
  - (iii) UDA exempt development;
  - (iv) UDA development application;
  - (v) UDA development approval;
  - (vi) UDA preliminary approval;
  - (vii) UDA development permit;
  - (viii) UDA development condition.
- (5) Without limiting subsection (2), the development scheme may be amended or revoked by MEDQ under this Act.
- (6) For subsection (5), anything done by the former ULDA in relation to amending the development scheme under the repealed ULDA Act is taken to have been done by MEDQ under this Act.

## **194 Application of this Act to transitioned UDAs**

- (1) This section provides for the application of this Act to transitioned UDAs.
- (2) This Act applies in relation to a transitioned UDA with necessary and convenient changes, including, for example, changes to allow for—
  - (a) the transitioned UDA having been declared before the commencement of this Act; and

- 
- (b) a transitioned interim land use plan or transitioned development scheme, or an amendment of a transitioned development scheme, having been made before the commencement of this Act.
- (3) Without limiting subsection (2), and to remove any doubt, it is declared that—
- (a) development that a transitioned interim land use plan or transitioned development scheme for the transitioned UDA provides is UDA assessable development is PDA assessable development under this Act for the transitioned UDA; and
- (b) development that a transitioned interim land use plan or transitioned development scheme for the transitioned UDA provides is UDA self-assessable development is PDA self-assessable development under this Act for the transitioned UDA.
- (4) In this section—

*transitioned development scheme* means a development scheme made under the repealed ULDA Act that, under section 193, is taken to be made under this Act.

*transitioned interim land use plan* means an interim land use plan made under the repealed ULDA Act that, under section 191, is taken to be made under this Act.

## **195 Relationship with Sustainable Planning Act**

- (1) Subsection (2) applies if—
- (a) the repealed ULDA Act, section 13 applied to a SPA development application; and
- (b) the application has not been decided at the commencement.
- (2) The repealed ULDA Act, section 13 continues to apply in relation to the application as if that Act had not been repealed.
- (3) An SPA development approval for land in a transitioned UDA granted under the repealed ULDA Act, section 13(2) (whether

before the commencement or under subsection (2)) is taken to be an SPA development approval for land in the transitioned UDA granted under section 44(2) of this Act.

- (4) An SPA development approval for land in a transitioned UDA continued under the repealed ULDA Act, section 14 is taken to be an SPA development approval for land in the transitioned UDA continued under section 45 of this Act.
- (5) An application relating to the Northshore Hamilton urban development area made under the repealed ULDA Act, section 14A that has not been decided at the commencement may be decided by MEDQ under section 46 of this Act.
- (6) For subsection (5), anything done by the former ULDA in relation to the application under the repealed ULDA Act is taken to have been done by MEDQ.
- (7) A community infrastructure designation continued in force, under the repealed ULDA Act, section 15(2), for land in a transitioned UDA is, from the commencement, taken to be a community infrastructure designation for land in the transitioned UDA continued in force under section 47(2) of this Act.

## **196 Regulation about transitioned UDAs**

- (1) A regulation under this Act may include details of the following—
  - (a) each transitioned UDA;
  - (b) any of the following applying to a transitioned UDA—
    - (i) an interim land use plan;
    - (ii) a development scheme or an amendment of a development scheme.
- (2) A reference in section 42 to a declaration regulation includes a reference to a regulation made under subsection (1)(a).
- (3) Subsection (4) applies if—



## **Part 5**

# **Development and uses in existing urban development areas**

### **198 Existing UDA development applications**

- (1) This section applies to a UDA development application made under the repealed ULDA Act that—
  - (a) was a properly made application under the repealed ULDA Act, section 51; and
  - (b) has not been decided at the commencement.
- (2) Subject to subsections (3) to (5), the UDA development application is taken to be a PDA development application made under this Act and must be decided by MEDQ under this Act.
- (3) For subsection (2)—
  - (a) anything done or existing in relation to the UDA development application under the repealed ULDA Act is taken to have been done or existing in relation to the PDA development application under this Act; and
  - (b) a reference in sections 86 and 87 to a proposed development scheme includes a reference to a proposed development scheme, or a proposed amendment of a development scheme, published under the repealed ULDA Act, section 25, or section 25 as applied under section 38 of that Act, that has not taken effect before the commencement.
- (4) Despite section 87(1)(a), MEDQ must consider the main purposes of the repealed ULDA Act, not the main purpose of this Act, in deciding the application.
- (5) If the repealed ULDA Act, section 17 applied to the UDA development application—



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- (a) the application must be decided as if the land the subject of the application were in a priority development area; and
  - (b) if a PDA development approval is granted because of the application, the approval is, immediately after it takes effect under this Act, taken to be an SPA development approval.

### **199 Appeals against existing decisions on UDA development applications**

- (1) Subsection (2) applies if—
  - (a) immediately before the commencement, a person could have, under the repealed ULDA Act, section 61, appealed to the Planning and Environment Court against the former ULDA's decision to impose a UDA development condition that includes a nominated assessing authority; and
  - (b) at the commencement—
    - (i) the period within which the appeal could have been started (the *appeal period*) has not ended; and
    - (ii) the person has not started the appeal.
- (2) The person may, within the appeal period, appeal to the Planning and Environment Court against the decision, and the court must hear and decide the appeal under the repealed ULDA Act as if it had not been repealed.
- (3) Subsection (4) applies if—
  - (a) before the commencement, a person has, under the repealed ULDA Act, appealed to the Planning and Environment Court against a decision of the former ULDA; and
  - (b) the appeal has not been finally dealt with at the commencement.

- (4) The Planning and Environment Court must hear, or continue to hear, and decide the appeal under the repealed ULDA Act as if it had not been repealed.
- (5) MEDQ must give effect to the outcome of an appeal started under subsection (2), or continued under subsection (4), in relation to the relevant PDA development approval under this Act.
- (6) If the appeal relates to land that has ceased to be in an urban development area under the repealed ULDA Act, and section 16(3) of that Act applied to the appeal, the appeal must be decided as if the cessation had not happened.

**200 Ministerial call in for existing decisions on UDA development applications not started at the commencement**

- (1) This section applies if—
  - (a) immediately before the commencement, the Minister administering the repealed ULDA Act could have, under the repealed ULDA Act, section 63, called in a UDA development application for which a decision notice had been given by the former ULDA; and
  - (b) at the commencement—
    - (i) the period within which the application could have been called in (the *call in period*) has not ended; and
    - (ii) the Minister has not called in the application.
- (2) The Minister may, by notice to MEDQ given before the call in period ends, call in the application.
- (3) The repealed ULDA Act, sections 64 to 66 apply in relation to the call in as if—
  - (a) a reference to the call in notice were a reference to the notice given under subsection (2); and
  - (b) the requirement to give a copy of the call in notice under the repealed ULDA Act, section 65 were a requirement

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that MEDQ give the copy to the persons mentioned in that section.

- (4) The Minister's decision on the call in is taken, for this Act other than section 90, to be a decision of MEDQ on a development application decided under section 198.
- (5) To remove any doubt, it is declared that no right of appeal applies under the repealed ULDA Act, section 61 or section 90 of this Act in relation to the Minister's decision on the call in.

**201 Ministerial call in for existing decisions on UDA development applications started but not finished at the commencement**

- (1) This section applies if—
  - (a) before the commencement, the Minister administering the repealed ULDA Act has, under the repealed ULDA Act, section 63, called in a UDA development application for which a decision notice had been given by the former ULDA; and
  - (b) at the commencement, the UDA development application has not been finally dealt with under the repealed ULDA Act, part 4, division 3, subdivision 4.
- (2) The repealed ULDA Act, sections 64 to 66 continue to apply in relation to the call in.
- (3) If the requirement to give a copy of the call in notice under the repealed ULDA Act, section 65 has not been complied with at the commencement, the requirement applies as if it were a requirement that MEDQ give the copy to the persons mentioned in that section.
- (4) The Minister's decision on the call in is taken, for this Act other than section 90, to be a decision of MEDQ on a development application decided under section 198.
- (5) To remove any doubt, it is declared that no right of appeal applies under the repealed ULDA Act, section 61 or

section 90 of this Act in relation to the Minister's decision on the call in.

## **202 Existing UDA development approvals**

- (1) A UDA development approval in effect under the repealed ULDA Act immediately before the commencement is, from the commencement, taken to be a PDA development approval of the same kind under this Act.
- (2) To remove any doubt, it is declared that, in this Act—
  - (a) a reference to a PDA development approval includes a reference to a UDA development approval that is taken to be a PDA development approval under subsection (1); and
  - (b) a reference to a PDA preliminary approval includes a reference to a UDA preliminary approval that is taken to be a PDA preliminary approval under subsection (1); and
  - (c) a reference to a PDA development permit includes a reference to a UDA development permit that is taken to be a PDA development permit under subsection (1); and
  - (d) a reference to a PDA development condition includes a reference to a condition imposed by the former ULDA on a UDA development approval that is taken to be a PDA development approval under subsection (1).
- (3) Subject to section 102(5) and any extension granted under section 102, the development approval's currency period for section 100 is the currency period applying, under the repealed ULDA Act, to the UDA development approval immediately before the commencement.
- (4) The development approval applies with necessary and convenient changes to facilitate the application of this Act to the approval.
- (5) Without limiting subsection (4)—

- (a) a reference in the development approval to the former ULDA it taken to be a reference to MEDQ; and
- (b) a reference in the development approval to urban development area is taken to be a reference to a transitioned UDA; and
- (c) a reference in the development approval to any of the following terms is taken to be a reference to the corresponding term under this Act for priority development areas—
  - (i) UDA assessable development;
  - (ii) UDA self-assessable development;
  - (iii) UDA exempt development;
  - (iv) UDA preliminary approval;
  - (v) UDA development permit;
  - (vi) UDA development condition.

### **203 Existing applications to extend currency period**

- (1) This section applies if—
  - (a) before the commencement, a person has applied for an extension of a UDA development approval's currency period under the repealed ULDA Act, section 77; and
  - (b) the application has not been decided at the commencement.
- (2) The application is taken to be an application made under section 101 of this Act and must be decided by MEDQ under this Act.
- (3) For subsection (2), anything done or existing in relation to the application under the repealed ULDA Act is taken to have been done or existing in relation to the application under this Act.

## **204 Plans of subdivision requiring former ULDA's approval**

- (1) This section applies to a plan of subdivision for which compliance assessment under the Sustainable Planning Act required under the repealed ULDA Act, section 80 has started, but not ended, at the commencement.
- (2) The compliance assessment may be finished under section 104 of this Act as if that section applied to the plan of subdivision.
- (3) For subsection (2), anything done by the former ULDA under the repealed ULDA Act in relation to the SPA compliance assessment is taken to have been done by MEDQ.
- (4) In this section—

*plan of subdivision* means a plan or agreement, however called, for reconfiguring a lot.

## **205 Special provision for Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012**

- (1) Subsections (2) and (3) apply if this part commences before the commencement of the Greentape Reduction Amendment Act, section 60, to the extent it inserts section 679 into the Environmental Protection Act.
- (2) The EPA, section 679 applies with the following changes—
  - (a) a reference in the section to a UDA development approval is taken to be a reference to a PDA development approval;
  - (b) a reference in the section to UDA development conditions is taken to be a reference to PDA development conditions;
  - (c) the reference in subsection (1)(b) to the ULDA Act, section 58(a) is taken to be a reference to section 88(a) of this Act;

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- (d) the reference in subsection (2)(c) to a UDA development offence is taken to be a reference to a PDA development offence;
  - (e) the reference in subsection (3) to the day a UDA development approval had effect under the ULDA Act is taken to be a reference to—
    - (i) for a UDA development approval under the repealed ULDA Act taken to be a PDA development approval under this Act—the day the UDA development approval had effect under the repealed ULDA Act; or
    - (ii) for a PDA development approval given under this Act—the day the PDA development approval had effect under this Act;
  - (f) the reference in subsection (4) to the anniversary of the day the UDA development approval was given is taken to be a reference to—
    - (i) for a UDA development approval under the repealed ULDA Act taken to be a PDA development approval under this Act—the anniversary of the day the UDA development approval was given under the repealed ULDA Act; or
    - (ii) for a PDA development approval given under this Act—the day the PDA development approval was given under this Act.
  - (3) The EPA, section 694, definition *transitional authority*, paragraph (c) applies with necessary and convenient changes to allow for the application of the EPA, section 679 with the changes mentioned in subsection (2).
  - (4) Subsection (5) applies if this part commences after the commencement of the Greentape Reduction Amendment Act, section 60, to the extent it inserts section 679 into the Environmental Protection Act.
  - (5) The carrying out of a prescribed ERA under UDA development conditions of a UDA development approval that,

under the EPA, section 679, are taken to be an environmental authority under the Environmental Protection Act, chapter 5 is not a PDA development offence.

(6) In this section—

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

***EPA, section 679*** means the Environmental Protection Act, section 679 as inserted by the Greentape Reduction Amendment Act, section 60.

***EPA, section 694, definition transitional authority*** means the Environmental Protection Act, section 694, definition *transitional authority* as inserted by the Greentape Reduction Amendment Act, section 60.

***Greentape Reduction Amendment Act*** means the *Environmental Protection (Greentape Reduction) and Other Legislation Amendment Act 2012*.

## Part 6 Proceedings and related matters

### 206 Starting proceeding for enforcement order for offence committed before the commencement

- (1) This section applies if—
- (a) a UDA development offence under the repealed ULDA Act was committed before the commencement; and
  - (b) at the commencement, the former ULDA had not started a proceeding for an enforcement order under the repealed ULDA Act, section 81 in relation to the offence.
- (2) MEDQ may start a proceeding under section 105 for an enforcement order to remedy or restrain the commission of the offence.



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## **207 Existing proceeding for enforcement order**

- (1) This section applies in relation to a proceeding for an enforcement order started under the repealed ULDA Act, section 81 that has not been decided at the commencement.
- (2) The Planning and Environment Court must decide the proceeding under the repealed ULDA Act, part 5, division 1 as if that Act had not been repealed.
- (3) The repealed ULDA Act, sections 81 to 85 continue to apply in relation to the proceeding.
- (4) If the court makes an enforcement order, the enforcement order is taken to be an enforcement order made under chapter 3, part 5, division 1 of this Act, and sections 110 and 113 apply to the order.

## **208 Existing enforcement order**

An enforcement order made under the repealed ULDA Act, part 5, division 1 that is still in force at the commencement is, from the commencement, taken to be an enforcement order made under chapter 3, part 5, division 1 of this Act, and sections 110 and 113 apply to the order.

## **209 Proceedings for offence committed before commencement**

- (1) This section applies in relation to a proceeding for an offence committed against the repealed ULDA Act before the commencement that—
  - (a) is started after the commencement; or
  - (b) was started before the commencement but has not been decided at the commencement.

*Note—*

See the *Acts Interpretation Act 1954*, section 20A in relation to starting and continuing proceedings for offences committed under repealed laws.

[s 210]

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- (2) The repealed ULDA Act, section 89 continues to apply in relation to the offence, as if that Act had not been repealed.
- (3) If the Magistrates Court makes an order under the repealed ULDA Act, section 89, the order is taken to be an order made under section 111 of this Act, and sections 112 and 113 apply to the order.

## **210 Existing Magistrates Court order**

An order made under the repealed ULDA Act, section 89 that is still in force at the commencement is, from the commencement, taken to be an order made under section 111 of this Act, and sections 112 and 113 apply to the order.

## **211 MEDQ's power to recover cost of works to remedy stated public nuisance**

- (1) This section applies if—
  - (a) before the commencement, the former ULDA carried out works under the repealed ULDA Act, section 91(2); and
  - (b) the former ULDA has not recovered the costs of the works from a person under the repealed ULDA Act, section 91(3).
- (2) MEDQ may recover the costs from the person as debt.

## **212 Existing proceedings for declaration**

- (1) This section applies in relation to a proceeding for a declaration started under the repealed ULDA Act, section 92 that has not been decided at the commencement.
- (2) The Planning and Environment Court—
  - (a) may make a declaration about either or both of the following—
    - (i) the matter mentioned in the repealed ULDA Act, section 92(1) for which the declaration was sought;

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- (ii) a matter mentioned in section 114(1) of this Act that corresponds to the matter mentioned in the repealed ULDA Act, section 92(1) for which the declaration was sought; and
  - (b) may make an order about the declaration made under paragraph (a).
- (3) If the court makes a declaration under subsection (2)(a), the declaration is taken to be a declaration made under section 114(1).
  - (4) If the court makes an order under subsection (2)(b), the order is taken to be an order made under section 114(2).

## Part 7 Other transitional provisions

### 213 Existing directions to government entity or local government to accept transfer

- (1) This section applies if—
  - (a) the Governor in Council has given a direction to a government entity or local government (the *directed entity*) under the repealed ULDA Act, section 137; and
  - (b) at the commencement, the transfer the subject of the direction has not happened.
- (2) The direction continues in effect and the directed entity must do every thing reasonably necessary to comply with the direction.
- (3) If the directed entity is a local government, on the making of a transfer, the stated land is taken to be land that the local government holds on trust in fee simple to which the Sustainable Planning Act, section 659 applies.
- (4) The transfer of the stated land or stated fund to MEDQ under section 181 does not affect the operation of this section.

**214 Existing directions to government entity or local government to provide or maintain infrastructure**

- (1) This section applies if—
  - (a) the Governor in Council has given a direction to a government entity or local government (the *directed entity*) under the repealed ULDA Act, section 138; and
  - (b) at the commencement, the direction has not been fully complied with.
- (2) The direction continues in effect and the directed entity must comply with the direction.
- (3) Subsection (2) applies despite any other Act or law.

## **Part 8 Repeals**

**216 Repeals**

The following Acts are repealed—

- the Industrial Development Act 1963, No. 28
- the Urban Land Development Authority Act 2007, No. 41.

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## Chapter 7      Other transitional provisions

### Part 1              Transitional provisions for Queen's Wharf Brisbane Act 2016

#### 217      Definition for part

In this part—

*amended*, in relation to a provision of this Act, means the provision as amended by the *Queen's Wharf Brisbane Act 2016*.

#### 218      Application of amendments about PDA-associated development

- (1) This section applies in relation to amended chapter 3 to the extent it relates to PDA-associated development, or PDA-associated land, for a priority development area.
- (2) Amended chapter 3 applies to development only if it substantially starts on or after the commencement.

#### 219      Application of amended s 103

Amended section 103 applies to a priority development area whether the area was declared or otherwise came into existence before, on or after the commencement.

## Schedule 1 Dictionary

### section 6

***appropriately qualified***, for a function or power, includes having the qualifications, experience or standing appropriate for the function or power.

*Example of standing for an officer or employee of a department—*  
the officer or employee's classification level in the department

***approved form*** means a form approved by MEDQ under section 175.

***authorising instrument***, for an infrastructure expenses recoupment charge, see section 116B(2).

***authority*** means the Commonwealth Games Infrastructure Authority established under section 144.

***authority member*** see section 146(1).

***board*** means the Economic Development Board established under section 130.

***board member*** see section 132(1).

***by-laws*** means by-laws made by MEDQ under section 54.

***building work*** means building work under the Sustainable Planning Act, other than that a reference to administering IDAS is taken to be a reference to administering this Act.

***business day*** does not include a day between 26 December of a year and 1 January of the following year.

***caretaker period*** means the election period for a general election under the *Electoral Act 1992*.

***charge area***, for chapter 3, part 6, division 2, see section 116A.

***charge notice***, for chapter 3, part 6, division 3, see section 116G(1).

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**charging entity**, for chapter 3, part 6, division 3, see section 116F.

**close relative**, of a board member or authority member, means the member's—

- (a) spouse; or
- (b) parent or grandparent; or
- (c) brother or sister; or
- (d) child or grandchild.

**commencement**, for chapter 6, see section 177.

**committee member** means a member of a local representative committee.

**community infrastructure designation** means a designation under the Sustainable Planning Act, section 200.

**conviction** includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

**deal**, in land or other property, includes—

- (a) acquire, develop, dispose of, hold, lease, license the use or occupation of, manage, sublease and otherwise deal in or with the land or other property, or interests in the land or other property; and
- (b) if the land or other property is contaminated by a hazardous contaminant—remediate the land or other property.

**decision notice**, for a PDA development application, see section 89(1).

**declaration regulation**—

- (a) for chapter 3, part 2, division 1—see section 34(1); or
- (b) for chapter 3, part 2, division 2—see section 37(1).

**development**, for chapter 3, see section 33(2).

**development scheme**, for a priority development area, other than a provisional priority development area, means the

development scheme for the area made under section 56, as amended from time to time under chapter 3, part 3, division 2.

**drainage work** see the *Plumbing and Drainage Act 2002*, schedule.

**enforcement order** means an order made under chapter 3, part 5, division 1.

**former entity**, for chapter 6, see section 177.

**former ULDA**, for chapter 6, see section 177.

**Fund** see section 25(1).

**government entity** means an entity, other than a GOC, as defined under the *Public Service Act 2008*, section 24.

**hazardous contaminant** see the *Environmental Protection Act 1994*, schedule 4.

**information request** see section 83(1).

**infrastructure** includes land, roads, railways, facilities, services and works used for supporting economic development or development for community purposes.

**infrastructure agreement** see the *Sustainable Planning Act*, schedule 3.

**infrastructure expenses recoupment charge** see section 116B(2).

**interim land use plan**, for a priority development area other than a provisional priority development area, means the interim land use plan for the area, made under section 38 or 39.

**lawful use**, of premises, includes—

- (a) a use that is generally in accordance with a current rezoning approval given under—
  - (i) the repealed *Local Government Act 1936*, section 33(5)(k), to which section 33(5)(m) of that Act also applied; or



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- (ii) the repealed *Local Government (Planning and Environment) Act 1990*, section 4.5(6), 4.8(6), 4.10(6) or 8.10(9A); and
  - (b) a use that is a natural and ordinary consequence of making a material change of use of the premises if the change was lawfully made under this Act or the Sustainable Planning Act.

***local representative committee*** means a committee established under section 158.

***material change of use*** means material change of use under the Sustainable Planning Act, other than that—

- (a) a reference to IDAS is taken to be a reference to this Act; and
- (b) a reference to development approval is taken to include a reference to PDA development approval.

***MEDQ*** see section 8(1).

***minor administrative amendment***, of a development scheme, means—

- (a) an amendment of the scheme if MEDQ is satisfied—
  - (i) the amendment is made merely to reflect a part of a planning instrument; and
  - (ii) adequate public consultation was carried out in relation to the making of the part; or
- (b) another amendment of a minor nature prescribed under a regulation; or
- (c) an amendment correcting or changing—
  - (i) an explanatory matter about the scheme; or
  - (ii) the format or presentation of the scheme; or
  - (iii) a spelling, grammatical or mapping error in the scheme; or
  - (iv) a factual matter incorrectly stated in the scheme; or
  - (v) a redundant or outdated term in the scheme; or

- (vi) inconsistent numbering of provisions in the scheme; or
- (vii) a cross-reference in the scheme.

***nominated assessing authority*** means—

- (a) for a PDA development condition—the entity so nominated under section 88(a); or
- (b) for a provision about a PDA development approval—a nominated assessing authority for a PDA development condition of the approval.

***Northshore Hamilton urban development area*** means the urban development area under the repealed ULDA Act of that name that, under section 190, is taken to be a priority development area under this Act.

***notice*** means a notice in writing.

***notification requirements***, for chapter 3, part 2, division 3, subdivision 2, means sections 42E, 42G, 42H and 42I.

***operational work*** see the Sustainable Planning Act, section 10.

***owner***, of land, means the person for the time being entitled to receive the rent for the land or who would be entitled to receive the rent for it if it were let to a tenant at a rent.

***PDA assessable development*** see section 33(3).

***PDA-associated development***, for a priority development area, means development that is—

- (a) declared to be PDA-associated development for the area under section 40C(1); or
- (b) identified as PDA-associated development for the area in the relevant development instrument for the area.

***PDA-associated land***, for a priority development area, means land—

- (a) on which PDA-associated development for the area is located or proposed to be located; and

- (b) as described in the declaration, or identified in the relevant development instrument, for the PDA-associated development.

***PDA change*** see section 42(1).

***PDA development application*** means an application for a PDA development approval.

***PDA development approval*** means a decision notice that—

- (a) approves, wholly or partly, development applied for in a PDA development application (whether or not the approval has conditions attached to it); and
- (b) is in the form of a PDA preliminary approval, a PDA development permit or a combination of both a PDA preliminary approval and a PDA development permit.

***PDA development condition*** see section 85(4)(b).

***PDA development offence*** means an offence against chapter 3, part 4, division 1.

***PDA development permit*** see section 94(2).

***PDA exempt development*** see section 33(5).

***PDA preliminary approval*** see section 94(1).

***PDA self-assessable development*** see section 33(4).

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

***planning instrument*** means a planning instrument under the Sustainable Planning Act.

***planning instrument change*** see section 42(2).

***planning scheme*** see the Sustainable Planning Act, section 79.

***plumbing work*** see the *Plumbing and Drainage Act 2002*, schedule.

***premises*** means—

- (a) a building or other structure; or

- (b) land, whether or not a building or other structure is situated on the land.

***priority development area*** means either of the following areas, as amended from time to time—

- (a) an area declared under section 34 as a provisional priority development area;
- (b) an area declared under section 37 as a priority development area.

***proposer***, of a proposed instrument for a planning instrument change, for chapter 3, part 2, division 3, subdivision 2, section 42A(2).

***proposer's website*** means—

- (a) for a proposed instrument for a planning instrument change prepared by MEDQ—the department's website; or
- (b) for a proposed instrument for a planning instrument change prepared by a relevant local government—the local government's website.

***provision***, of infrastructure, for chapter 3, part 6, division 2, see section 116A.

***provisional land use plan***, for a provisional priority development area, means the provisional land use plan for the area, made under section 35.

***provisional priority development area*** means an area declared under section 34 to be a provisional priority development area, as the area is amended from time to time.

***public response report***, for chapter 3, part 2, division 3, subdivision 2, section 42I(2)(a).

***public sector entity*** means any of the following—

- (a) a department or part of a department;
- (b) a local government;
- (c) a government owned corporation;

- (d) a rail government entity under the *Transport Infrastructure Act 1994*;
- (e) another agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose;
- (f) a distributor-retailer under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

**rateable land** means rateable land under the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

**reconfiguring a lot** see the Sustainable Planning Act, section 10.

**register** means the register MEDQ keeps under section 172.

**relevant charge**, for chapter 3, part 6, division 3, see section 116F.

**relevant development**, for a provision of this Act about a PDA development application or an SPA development approval or PDA development approval, means the development, or proposed development, the subject of the application or approval.

**relevant development instrument** means—

- (a) for a provisional priority development area—the provisional land use plan for the area; or
- (b) for another priority development area—
  - (i) an interim land use plan for the area; or
  - (ii) the development scheme for the area.

**relevant land** means—

- (a) for a PDA development application—the land the subject of the application; or
- (b) for a PDA development approval or an SPA development approval—the land the subject of the approval.

**relevant local government**, for a priority development area, land or a PDA development application, means each local

government in whose area the priority development area, the land or the land the subject of the application is located.

**relevant priority development area**, for a provision of this Act about a relevant development instrument, PDA development application or PDA development approval, means the priority development area to which the instrument, application or approval relates.

**remediate** land or other property means—

- (a) rehabilitate the land or other property; or
- (b) restore the land or other property; or
- (c) take other action to prevent or minimise serious environmental harm being caused by the hazardous contaminant contaminating the land or other property.

**repealed ID Act** means the repealed *Industrial Development Act 1963*.

**repealed ULDA Act** means the repealed *Urban Land Development Authority Act 2007*.

**road** means—

- (a) an area of land dedicated to public use as a road; or
- (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or
- (c) a bridge, culvert, ferry, ford, tunnel or viaduct; or
- (d) a pedestrian or bicycle path; or
- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in any of paragraphs (a) to (d).

**serious environmental harm** see the *Environmental Protection Act 1994*, section 17.

**SPA development application** means a development application under the Sustainable Planning Act.

**SPA development approval** means a development approval under the Sustainable Planning Act.

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***SPA preliminary approval*** means a preliminary approval under the Sustainable Planning Act.

***special rate or charge*** means a special rate or charge levied under section 115.

***structure*** means anything built or constructed, whether or not attached to land.

***submission*** means a written submission.

***submission period***—

- (a) for a proposed instrument for a planning instrument change under chapter 3, part 2, division 3, subdivision 2—see section 42E(2)(b)(ii); or
- (b) for a proposed development scheme—see section 59(1)(b)(ii); or
- (c) for a PDA development application—see section 84(4)(d).

***superseding public sector entity***, for land, means the public sector entity that will have responsibility for the infrastructure on the land after the land ceases to be in, or to be PDA-associated land for, a priority development area.

***Sustainable Planning Act*** means the *Sustainable Planning Act 2009*.

***transitioned UDA***, for chapter 6, see section 177.

***use***, of premises, includes any ancillary use of the premises.

***work***, without reference to a specific type of work, means—

- (a) building work; or
- (b) operational work; or
- (c) plumbing work or drainage work.

## 1 Index to endnotes

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- 3 Table of reprints
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- 5 List of annotations

## 2 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      |
| amd  | = amendment                    | prov   | = provision         |
| t    |                                |        |                     |
| 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                      | renu   | = renumbered        |
|      |                                | m      |                     |
| ins  | = inserted                     | rep    | = repealed          |
| lap  | = lapsed                       | (retro | = retrospectively   |
|      |                                | )      |                     |
| notf | = notified                     | rv     | = revised version   |
| d    |                                |        |                     |
| num  | = numbered                     | s      | = section           |



| <b>Key</b>    | <b>Explanation</b>        | <b>Key</b>   | <b>Explanation</b>                             |
|---------------|---------------------------|--------------|--|
| <b>o in c</b> | = <b>order in council</b> | <b>sch</b>   | = <b>schedule</b>                              |
| <b>om</b>     | = <b>omitted</b>          | <b>sdiv</b>  | = <b>subdivision</b>                           |
| <b>orig</b>   | = <b>original</b>         | <b>SIA</b>   | = <b>Statutory Instruments Act 1992</b>        |
| <b>p</b>      | = <b>page</b>             | <b>SIR</b>   | = <b>Statutory Instruments Regulation 2012</b> |
| <b>para</b>   | = <b>paragraph</b>        | <b>SL</b>    | = <b>subordinate legislation</b>               |
| <b>prec</b>   | = <b>preceding</b>        | <b>sub</b>   | = <b>substituted</b>                           |
| <b>pres</b>   | = <b>present</b>          | <b>unnum</b> | = <b>unnumbered</b>                            |
|               |                           | <b>m</b>     |  |
| <b>prev</b>   | = <b>previous</b>         |              |  |

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

| <b>Reprint No.</b> | <b>Amendments included</b> | <b>Effective</b> | <b>Notes</b>            |
|--------------------|----------------------------|------------------|-------------------------|
| 0A                 | none                       | 11 December 2012 | certain provs commenced |

| <b>Current as at</b> | <b>Amendments included</b> | <b>Notes</b>             |
|----------------------|----------------------------|--------------------------|
| 1 February 2013      | 2012 Act No. 43            | RA ss 7(1)(k), 37, 40    |
| 2 February 2014      | —                          | prov exp 1 February 2014 |
| 1 October 2014       | 2014 Act No. 40            | RA s 44                  |
| 20 November 2015     | 2015 Act No. 28            |                          |
| 27 May 2016          | 2016 Act No. 17            | RA ss 35, 44             |

## **4 List of legislation**

### **Economic Development Act 2012 No. 43**

date of assent 11 December 2012

ss 1–2 commenced on date of assent

ch 8, pts 1–4, 7–8, ss 284–285, 293, 295–299, 302, 306–307, 311, 315–316, 318, 319 (to the extent it ins s 192), sch 2 amdt of the Disaster Management Act 2003, the Environmental Protection Act 1994, the State Development and Public Works Organisation Act 1971, amdts 1–8, 14–18, 24–30 commenced on date of assent (see s 2)

remaining provisions commenced 1 February 2013 (2013 SL No. 1)

amending legislation—

### **Economic Development Act 2012 No. 43 ss 1–2, ch 7 pt 1**

date of assent 11 December 2012

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2013 (2013 SL No. 1)

### **State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014 No. 40 chs 1–2 pt 1**

date of assent 15 August 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2014 (2014 SL No. 209)

### **Sustainable Ports Development Act 2015 No. 28 ss 1, 54 sch 2**

date of assent 20 November 2015

commenced on date of assent

### **Queen's Wharf Brisbane Act 2016 No. 17 ch 8 pt 4**

date of assent 5 May 2016

ss 1–2 commenced on date of assent

ss 87–128 commenced 27 May 2016 (2016 SL No. 61)

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## 5 List of annotations

**Long title** amd 2012 No. 43 s 218

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**Definitions**  
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**MEDQ's functions**  
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s 35 amd 2014 No. 40 s 6; 2016 No. 17 s 91

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**Consultation required before declaring PDA-associated development**  
s 40B ins 2016 No. 17 s 93

**Declaration of PDA-associated development**  
s 40C ins 2016 No. 17 s 93

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**Cessation of provisional priority development area**

s 41 amd 2016 No. 17 s 94

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**Preparation of proposed planning instrument change**

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**Consultation about proposed planning instrument change**

s 42B ins 2014 No. 40 s 8

**Approval of proposed planning instrument change by MEDQ**

s 42C ins 2014 No. 40 s 8

**When notification requirements do not apply**

s 42D ins 2014 No. 40 s 8

**Public notification**

s 42E ins 2014 No. 40 s 8

**Submissions on proposed planning instrument change**

s 42F ins 2014 No. 40 s 8

**Consideration of submissions**

s 42G ins 2014 No. 40 s 8

**Amendment of proposed planning instrument change**

s 42H ins 2014 No. 40 s 8

**Public response report**

s 42I ins 2014 No. 40 s 8

**Approval of planning instrument change**

s 42J ins 2014 No. 40 s 8

**Effect of planning instrument change**

s 42K ins 2014 No. 40 s 8

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s 42L ins 2014 No. 40 s 8

**Subdivision 3—Other matters**

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**Community infrastructure designations**

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**Conversion of PDA development approval to SPA development approval**

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s 50 amd 2016 No. 17 s 98

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amd 2015 No. 28 s 54 sch 2

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**Division 2—Infrastructure expenses recoupment charges**

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def *charge area* amd 2016 No. 17 s 114

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s 116D ins 2014 No. 40s 17

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s 116E ins 2014 No. 40s 17  
amd 2016 No. 17 s 115

**Division 3—Recovery of relevant charges**

**div hdg** ins 2014 No. 40 s 17

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s 116F ins 2014 No. 40 s 17

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s 116G ins 2014 No. 40 s 17

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**Transitional regulation-making power**

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**CHAPTER 7—OTHER TRANSITIONAL PROVISIONS**

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def *authorising instrument* ins 2014 No. 40 s 22(2)

def *business day* ins 2014 No. 40 s 22(2)

def *charge area* ins 2014 No. 40 s 22(2)

def *charge notice* ins 2014 No. 40 s 22(2)

def *charging entity* ins 2014 No. 40 s 22(2)

def *infrastructure expenses recoupment charge* ins 2014 No. 40 s 22(2)

def *notification requirements* ins 2014 No. 40 s 22(2)

- def *PDA-associated development* ins 2016 No. 17 s 128(1)
- def *PDA-associated land* ins 2016 No. 17 s 128(1)
- def *PDA change* ins 2014 No. 40 s 22(2)
- def *planning instrument change* ins 2014 No. 40 s 22(2)
- def *proposer* ins 2014 No. 40 s 22(2)
- def *proposer's website* ins 2014 No. 40 s 22(2)
- def *provision* ins 2014 No. 40 s 22(2)
- def *public response report* ins 2014 No. 40 s 22(2)
- def *public sector entity* sub 2014 No. 40 s 22(1)–(2)
- def *rateable land* ins 2014 No. 40 s 22(2)
- def *relevant charge* ins 2014 No. 40 s 22(2)
- def *submission period* amd 2014 No. 40 s 22(3)–(4)
- def *superseding public sector entity* amd 2016 No. 17 s 128(2)

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