



# **State Development and Public Works Organisation Act 1971**

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Queensland

# State Development and Public Works Organisation Act 1971

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# State Development and Public Works Organisation Act 1971

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

## **Part 1 Preliminary**

### **1 Short title**

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

### **2 Definitions**

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

## **Part 2 Administration**

### **Division 1 Coordinator-General and Deputy Coordinator-General**

#### **3 Administration of Act**

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

#### **4 Appointment of Coordinator-General**

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

#### **5 Appointment of Deputy Coordinator-General**

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

#### **6 Tenure of appointment under ss 4 and 5**

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

#### **7 Termination of appointment under ss 4 and 5**

- (1) A person appointed to an office referred to in section 4 or 5 shall be deemed to have vacated his or her office in the following circumstances—
  - (a) if the person engages in remunerative employment outside the duties of the office to which the person is appointed;

- (b) if the person engages in any trade or business save as a member of a body corporate that consists of more than 20 persons;
  - (c) if the person becomes bankrupt or takes advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
  - (d) if the person absents himself or herself from duty for 14 consecutive working days or for a total of 28 days in any calendar year save on account of illness or pursuant to leave approved by the Minister who is hereby empowered so to do;
  - (e) if the person is convicted in the State of an indictable offence for which the person is liable to be imprisoned for 12 months at the least or is convicted elsewhere of an offence that, if committed by the person in the State would constitute an indictable offence upon conviction whereof the person would be so liable;
  - (f) if the person dies;
  - (g) if the person is concerned in any agreement made for the purposes of this Act save in the person's capacity as Coordinator-General or, as the case may be, Deputy Coordinator-General or, save as aforesaid, if the person participates in or claims to be entitled to participate in the profits arising from such an agreement;
  - (h) if the person resigns by signed written notice addressed to the Governor in Council and furnished to the Minister.
- (2) However, subsection (1)(a) does not apply to a person if the person's remunerative employment is—
- (a) under another office and because of the person's appointment to the office mentioned in section 4 or 5; or
  - (b) as the chief executive.
- (3) A person appointed to an office referred to in section 4 or 5 may be removed from office by the Governor in Council on

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account of misbehaviour, incapacity, or being unfit, in the opinion of the Governor in Council, to hold the office.

## **7A Appointment of acting Deputy Coordinator-General**

- (1) This section applies if a Deputy Coordinator-General—
  - (a) vacates his or her office; or
  - (b) can not perform the functions of the office of Deputy Coordinator-General because of absence or another reason.
- (2) The Minister may appoint a person to act as the Deputy Coordinator-General in place of the person mentioned in subsection (1).
- (3) The person appointed under subsection (2) holds office for the term, and on any conditions stated in—
  - (a) the person’s instrument of appointment; or
  - (b) a notice signed by the Minister and given to the person.
- (4) The term of the appointment—
  - (a) must be no more than 3 months; and
  - (b) can not be extended.
- (5) In appointing a person to act under this section, the Minister must consult with—
  - (a) the Coordinator-General; and
  - (b) Public Sector Commissioner under the *Public Sector Act 2022*.

## **Division 2 Incorporation of Coordinator-General and functions**

### **8 Incorporation of Coordinator-General**

- (1) The corporation sole constituted under section 8A of the *State Development and Public Works Organisation Act 1938* is

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hereby preserved, continued in existence and constituted under this Act under the name and style The Coordinator-General.

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

## **9 Coordinator-General represents Crown**

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

## **10 Functions of Coordinator-General**

- (1) The Coordinator-General shall have such functions as are assigned to the Coordinator-General by this Act or by regulation made under this Act or by or under any other Act.
- (2) The Coordinator-General shall, of his or her own motion or at the direction of the Minister, undertake and commission such investigations, prepare such plans, devise such ways and

means, give such directions, and take such steps and measures, as the Coordinator-General thinks necessary or desirable to—

- (a) secure the proper planning, preparation, execution, coordination, control and enforcement of a program of works, planned developments, and environmental coordination for the State and for areas over which the State claims jurisdiction; or
  - (b) perform any other function of the Coordinator-General.
- (3) The Coordinator-General shall furnish to the Minister such recommendations as the Coordinator-General thinks fit to make concerning any matter that arises out of or is connected with the performance by the Coordinator-General of his or her functions assigned to the Coordinator-General by or under this Act or that may assist in the proper administration of this Act.

## **11 Power of delegation**

- (1) Subject to section 111, the Coordinator-General, with the approval of the Minister, may either generally or otherwise as provided by the instrument of delegation, by writing under the Coordinator-General's seal, delegate to any person or body of persons all or any of the Coordinator-General's powers and functions except this power of delegation.
- (2) A power or function so delegated, if exercised or performed by the delegate, shall be exercised or performed by the delegate in accordance with the instrument of delegation.
- (3) A delegation may be limited to any part or parts of the State and may be made subject to such terms as the Coordinator-General thinks fit including a requirement that the delegate shall report to the Coordinator-General upon the delegate's exercise or performance of the delegated power or function.
- (4) Where pursuant to this Act or to any other Act the exercise or performance of any power or function, the subject of a delegation, is made to depend upon the opinion or belief of



the Coordinator-General in relation to any matter, that power or function may be exercised or performed upon the opinion or belief of the delegate who is considering the exercise or performance of that power or function.

- (5) The Coordinator-General may make such and so many delegations of the same power or function and to such number of persons or bodies of persons as the Coordinator-General considers necessary or desirable.
- (6) A delegation is revocable at the will of the Coordinator-General and does not prevent the exercise of a power or the performance of a function by the Coordinator-General.

## 12 Power to hold inquiry

- (1) The Coordinator-General may, of his or her own motion, and shall, at the direction of the Minister, institute and conduct an inquiry into any matter that, in the opinion of the Coordinator-General or of the Minister, is one with which the Coordinator-General should be concerned in the proper performance of the Coordinator-General's functions under any Act or that would further the purposes of this Act.
- (2) The Governor in Council may, in relation to a particular inquiry to be conducted under this Act, upon the recommendation of the Minister, declare by regulation that the inquiry therein specified shall be conducted as a commission of inquiry under the *Commissions of Inquiry Act 1950* whereupon the Coordinator-General or, as the case may be, the Coordinator-General's delegate who conducts the inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under that Act and of a chairperson of such a commission except such as are by that Act confined to a chairperson who is a judge of the Supreme Court and the provisions of that Act shall apply accordingly.

### **13 Cooperation with Coordinator-General**

- (1) Subject to this section, it is the duty of—
- (a) a local body and, where it is a corporation, of every person who comprises it; and
  - (b) the chief executive of a department of the Government; and
  - (c) a corporation constituted for the purposes of any Act or that, being incorporated by the law of the State, is an instrumentality or agency of the Crown, and of every person who comprises it; and
  - (d) the holder of any office provided for by any Act; and
  - (e) a person in the employ of a local body, or in the employ of such corporation or holder for the purposes of the material Act, or employed in such a department;

to cooperate with the Coordinator-General in the performance by him or her of the functions of the Coordinator-General.

- (2) Without limit to the duty imposed by subsection (1) a person subject thereto—
- (a) shall consult with and make his or her services available to the Coordinator-General in connection with works, whether constructed, in course of construction, or to be constructed and in connection with any other matter that concerns the Coordinator-General; and
  - (b) shall confer, as requested by the Coordinator-General, on any matter that concerns development, planning, or environmental effects within the State or within any area over which the State claims jurisdiction and on any other matter that concerns the Coordinator-General; and
  - (c) shall, as required by the Coordinator-General, furnish to the Coordinator-General accurate information in the possession of or available to that person in the capacity whereby he or she is subject to this section concerning such matters as in the Coordinator-General's opinion would assist the Coordinator-General in the discharge of his or her functions.

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- (3) This section shall be construed to apply—
- (a) save where the Minister directs to the contrary in a particular case, proof whereof shall lie upon the person who alleges it; and
  - (b) in relation to the furnishing of information, subject to the provisions of any Act that expressly require a person employed under that Act to preserve and aid in preserving secrecy with regard to all matters that may come to the person's knowledge in the person's official capacity.

#### **14 Appointment of persons to help Coordinator-General**

- (1) The Coordinator-General may appoint any person to help the Coordinator-General in the performance or exercise of his or her functions or powers.
- (2) The person holds office on the conditions stated in—
  - (a) the person's instrument of appointment; or
  - (b) a notice signed by the Coordinator-General and given to the person.
- (3) In appointing a person under this section, the Coordinator-General must consult with the Public Sector Commissioner under the *Public Sector Act 2022*.
- (4) A person appointed under this section is appointed under this Act, and not under the *Public Sector Act 2022*.

### **Division 3 Officers and workers of Coordinator-General**

#### **15 Appointment of workers**

- (1) The Coordinator-General may employ such workers as the Coordinator-General considers necessary for the proper performance by the Coordinator-General of his or her

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functions and the proper exercise by the Coordinator-General of his or her powers.

- (2) The wages payable to a worker so employed and the conditions of his or her employment shall comply with the requirements of any material award of an industrial tribunal or other industrial instrument and, subject to the award or if no award exists, shall be as determined from time to time by the Coordinator-General.

## **16 Services of technical advisers**

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

## **Part 3 Program of works**

### **17 Program of works**

- (1) The Coordinator-General may, of his or her own motion, and shall, at the direction of the Minister, plan in respect of a particular period—
  - (a) a program of works for the State or for any part of the State or for any area over which the State claims jurisdiction; and
  - (b) the orderly carrying out over that period or during any portion or portions of that period of the whole or any part of the works included in the program.
- (2) For the purpose of planning a program of works the Coordinator-General may require any person who is required by this Act to cooperate with the Coordinator-General to furnish to him or her—

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- (a) particulars of all works proposed to be carried out by or under the authority or supervision of that person during the period in question; and
  - (b) such information as the Coordinator-General considers necessary to enable the Coordinator-General to have proper regard to the matters prescribed by section 23 as matters to be regarded in relation to a program of works.
- (3) Particulars and information furnished to the Coordinator-General pursuant to the Coordinator-General's requisition shall be verified in manner directed by the Coordinator-General, including (should the Coordinator-General so direct) by way of statutory declaration.

## **18 Selection of works for program of works and their performance**

- (1) Works to be included in a program of works shall be at the discretion of the Coordinator-General.
- (2) A program of works may include works that have been submitted to the Coordinator-General by a local body or other person for inclusion in a program of works or that are included therein on the initiative of the Coordinator-General in addition to or in lieu of works so submitted.
- (3) The Coordinator-General may plan that works included in a program of works shall be undertaken by the Coordinator-General or by his or her agent, or by any local body or person who is required or permitted under or pursuant to any Act so to do.

## **19 Submission of program of works to Governor in Council**

- (1) The Coordinator-General shall furnish his or her plan for a program of works to the Minister who, if the Minister approves of it, shall submit the same to the Governor in Council for approval.

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

## **20 Alterations to approved program of works**

- (1) The Coordinator-General may make such alterations to a program of works approved by the Governor in Council as the Coordinator-General considers warranted in the circumstances.
- (2) The Coordinator-General shall not exercise the power conferred on him or her by this section except with the consent of the Minister first had and obtained save where the alteration will not result in additional expenditure in a sum exceeding \$50,000 or such other amount as is prescribed under a regulation.

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## **21 Implementation of program of works as approved**

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

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

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

## **23 Objectives of comprehensive program of works**

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

- (a) the orderly arrangement and revision of a general program of works for the State;

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



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## Part 4 Environmental coordination

### Division 1 Preliminary

#### 24 Definitions for pt 4

In this part—

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

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

**Coordinator-General's report** means—

- (a) for an EIS—the report the Coordinator-General must prepare under section 34D(2); or
- (b) for an IAR—the report the Coordinator-General must prepare under section 34L(2).

**environmental authority** means an environmental authority under the Environmental Protection Act.

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

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

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

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

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

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

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

## **25 Supervision of environment**

The Coordinator-General shall, of the Coordinator-General's own motion or at the direction of the Minister, coordinate departments of the Government and local bodies throughout the State in activities directed towards ensuring that in any development proper account is taken of the environmental effects.

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

#### **25A Fees for pt 4**

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

#### **25AA Coordinator-General may waive or reduce fee**

- (1) Despite section 25A, if a fee is prescribed as mentioned in that section for an application or coordinated project, the Coordinator-General may waive or reduce the fee.

- (2) Subsection (3) applies if a fee is prescribed as mentioned in section 25A for an application under section 35C for a proposed change to a coordinated project or a condition of the project.
- (3) In deciding whether to waive or reduce the fee for the application, the Coordinator-General may have regard to—
  - (a) the complexity of the proposed change; and
  - (b) the extent of public consultation required in relation to the proposed change.

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

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

## **Division 2 Coordinated project**

### **Subdivision 1 Power to declare coordinated project**

#### **26 Declaration of coordinated project**

- (1) The Coordinator-General may—
  - (a) declare a project to be a coordinated project for which an EIS is required; or

- (b) declare a project to be a coordinated project for which an IAR is required.
- (2) However, the Coordinator-General may make a declaration under subsection (1)(b) only if satisfied the environmental effects of the project do not, having regard to their scale and extent, require assessment through the EIS process under division 3, subdivision 1.
- (3) The declaration must be made by gazette notice.
- (4) If the project involves development that requires a development approval, the Coordinator-General must give a copy of the gazette notice to the person who is, or is to be, the assessment manager for a development application for the approval.
- (5) If the project involves a proposed environmental authority for a mining activity relating to a mining lease, the Coordinator-General must give a copy of the gazette notice to the EPA and MRA Ministers.
- (6) If the project involves a proposed geothermal production lease under the *Geothermal Energy Act 2010*, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering that Act.
- (7) If the project involves a lease or licence under a petroleum Act, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering the Act.
- (8) If the project involves a proposed GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*, the Coordinator-General must also give a copy of the gazette notice to the Minister for the time being administering that Act.
- (9) In this section—  
***petroleum Act*** means—  
(a) the *Petroleum Act 1923*; or

- (b) the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (c) the *Petroleum (Submerged Lands) Act 1982*.

## **27 Matters Coordinator-General considers before making declaration**

- (1) In considering whether to declare a project to be a coordinated project, the Coordinator-General must have regard, and may give the weight the Coordinator-General considers appropriate, to the following—
  - (a) detailed information about the project given by the proponent in an initial advice statement;
  - (b) relevant planning schemes or policy frameworks of a local government, the State or the Commonwealth;
  - (c) relevant State policies and Government priorities;
  - (d) a pre-feasibility assessment of the project, including how it satisfies an identified need or demand;
  - (e) the capacity of the proponent to undertake and complete the EIS or IAR for the project;
  - (f) any other matter the Coordinator-General considers relevant.
- (2) However, the Coordinator-General need not consider an application for a declaration under section 26(1) unless the Coordinator-General is satisfied that—
  - (a) section 27AB has been complied with for the project; and
  - (b) the project has at least 1 of the following—
    - (i) complex approval requirements imposed by a local government, the State or the Commonwealth;
    - (ii) strategic significance to a locality, region or the State, including for the infrastructure, economic and social benefits, capital investment or employment opportunities it may provide;

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- (iii) significant environmental effects;
- (iv) significant infrastructure requirements.

## **Subdivision 2      Applying for and obtaining coordinated project declaration**

### **27AA Who may apply**

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

### **27AB Requirements for application**

The application must be written and include—

- (a) an initial advice statement mentioned in section 27(1)(a); and
- (b) enough information about the project to allow the Coordinator-General to consider the matters mentioned in section 27(1)(b) to (f) and (2) for the project; and
- (c) a separate statement detailing the proponent's financial and technical capability to—
  - (i) complete an EIS or IAR for the project; and
  - (ii) give any additional information that may be requested by the Coordinator-General under section 34B(2)(b) or 34J(2)(b); and
- (d) a separate statement (*pre-feasibility assessment*) assessing the technical and commercial feasibility of the project.

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### **27ABA Coordinator-General may refuse to receive or process application for declaration**

- (1) This section applies if the Coordinator-General is not satisfied that an application for a declaration under section 26(1) for a coordinated project includes enough information about the project to allow the Coordinator-General to consider the matters mentioned in section 27(1)(b) to (f) or (2) for the project.
- (2) The Coordinator-General may—
  - (a) refuse to receive or process the application; or
  - (b) give the proponent a reasonable opportunity to give the information to the Coordinator-General before refusing to receive or process the application.
- (3) If the Coordinator-General decides to refuse to receive or process the application, the Coordinator-General must—
  - (a) give the proponent written notice of the decision and the reasons for it; and
  - (b) refund the application fee to the proponent.

### **27AC Deciding application**

- (1) The Coordinator-General must decide whether or not to make the declaration.
- (2) Sections 26(2) and 27 apply for the making of the decision.
- (3) If the Coordinator-General decides not to make the declaration, the Coordinator-General must give the applicant written notice of the decision and the reasons for it.
- (4) The Coordinator-General may decide to declare, or not to declare, a project to be a coordinated project on the basis of 1 or more of the matters mentioned in section 27.
- (5) The Coordinator-General is not bound to declare a project to be a coordinated project merely because the project satisfies 1 or more of the matters mentioned in section 27.

## **Subdivision 3      Miscellaneous provisions**

### **27AD Application of Judicial Review Act 1991**

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

### **27AE Notice of change of proponent, contact details or registered office**

- (1) The proponent of a coordinated project must give the Coordinator-General written notice of the following—
  - (a) a change of proponent for the project;
  - (b) a change in the proponent's contact details;
  - (c) if the proponent is a corporation, a change in the proponent's registered office.
- (2) The notice must be given—
  - (a) within 21 days after the change; or
  - (b) by any later time allowed by the Coordinator-General in writing.

### **27AF Cancellation of declaration**

- (1) The Coordinator-General may cancel a declaration made under section 26(1) for a coordinated project before completing a Coordinator-General's report for the project if—
  - (a) the proponent of the project makes a written request to the Coordinator-General to cancel the declaration; or
  - (b) the Coordinator-General considers that the proponent no longer has the capability to undertake and complete the EIS or IAR for the project; or
  - (c) the Coordinator-General considers it is in the public interest to cancel the declaration; or



- (d) the proponent for the project changes; or
  - (e) the proponent substantially changes the project from that described in the initial advice statement mentioned in section 27(1)(a); or
  - (f) the proponent fails to comply with section 27AE in relation to the project.
- (2) If the Coordinator-General decides to cancel a declaration under subsection (1), the Coordinator-General must, within 14 days after the decision, give the proponent written notice of the decision and the reasons for it.
- (3) A decision to cancel the declaration takes effect on the later of—
- (a) the day the written notice is given to the proponent; or
  - (b) the day of effect stated in the written notice.

### **27A Lapsing of declaration if EIS required**

- (1) This section applies to a coordinated project if an EIS is required for the project.
- (2) The declaration for the project lapses if, within 18 months of the terms of reference being finalised, the Coordinator-General has not, under section 34A(1)(b), accepted a draft EIS for the project as the final EIS.
- (3) Despite subsection (2), if before the declaration lapses, the Coordinator-General gives written notice to the proponent stating a later time for the declaration to lapse, the declaration does not lapse until the later time.

### **27B Lapsing of declaration if IAR required**

- (1) This section applies to a coordinated project if an IAR is required for the project.
- (2) The declaration for the project lapses if, within 18 months of the declaration being made, the Coordinator-General has not,

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under section 34I(1)(b), accepted a draft IAR as the final IAR for the project.

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

## **28 Application of divs 3–8**

Divisions 3 to 8 apply only if the project is declared, under section 26, to be a coordinated project.

## **Division 3 Assessment process**

### **Subdivision 1 EIS process**

#### **29A Application of sdiv 1**

This subdivision applies to a coordinated project for which an EIS is required.

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

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

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- (2) The public notification must state a period within which the comments must be made under subsection (1)(b).

### **30 Finalising terms of reference**

- (1) If, under section 29, the Coordinator-General publicly notifies that comments on the draft terms of reference are invited—
- (a) the Coordinator-General must, as soon as practicable after the comment period ends, finalise the terms of reference for the EIS and give the proponent a copy; and
  - (b) in finalising the terms of reference, the Coordinator-General must have regard to any comments on the draft terms of reference received by the Coordinator-General within the comment period.
- (2) Subsection (3) applies if the Coordinator-General has not, under section 29, publicly notified that comments on the draft terms of reference are invited.
- (3) The Coordinator-General must, as soon as practicable after the Coordinator-General advises the proponent that an EIS is required for the project under section 29(1)(a), finalise the terms of reference for the EIS and give the proponent a copy.
- (4) In this section—  
*comment period* means the period stated under section 29(2).

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

- (1) The Coordinator-General may refer details of the project, the initial advice statement and the terms of reference, to any entity the Coordinator-General considers may be able to give the Coordinator-General comment and information that will help in preparing the EIS.
- (2) If the entity wants the proponent to consider its response when preparing the EIS, the entity must give its response to the Coordinator-General within the reasonable time stated by the

Coordinator-General for giving the response (the *response time*).

- (3) If the entity does not give its response within the response time, the proponent may prepare the EIS as if the entity had no comment on the project.

### **32 Preparation of draft EIS**

- (1) The proponent of the project must prepare a draft EIS for the project.
- (2) The draft EIS prepared by the proponent must address, for the whole project, the terms of reference to the satisfaction of the Coordinator-General.

### **33 Public notification of draft EIS**

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

### **34 Making submissions on draft EIS**

- (1) During the submission period for a draft EIS, any person may make a submission to the Coordinator-General about the draft EIS.

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

### **34A Coordinator-General decides whether to accept draft EIS as final EIS**

- (1) After the end of the submission period for a draft EIS, the Coordinator-General must—
  - (a) consider the following—
    - (i) the draft EIS;
    - (ii) any properly made submissions for the draft EIS;
    - (iii) any other material the Coordinator-General considers is relevant to the project; and
  - (b) decide whether or not to accept the draft EIS as the final EIS for the project.
- (2) The Coordinator-General may decide not to accept the draft EIS as the final EIS if satisfied additional information is needed about—
  - (a) an environmental effect of the project; or
  - (b) any other matter the Coordinator-General considers is relevant to the project.

### **34B Giving notice of decision**

- (1) The Coordinator-General must give the proponent written notice of the Coordinator-General's decision under section 34A.
- (2) If the decision is not to accept the draft EIS as the final EIS, the notice must state the following—
  - (a) the decision;
  - (b) the additional information required by the Coordinator-General;
  - (c) whether or not public notification of the additional information is required;
  - (d) the period within which a draft EIS that includes or attaches the additional information (a *revised draft EIS*) must be given to the Coordinator-General.

### **34C Requirement to give additional information**

- (1) This section applies if the Coordinator-General decides under section 34A(1)(b) not to accept the draft EIS as the final EIS.
- (2) If the notice given under section 34B states that public notification of the additional information is not required, the proponent must, within the period stated in the notice, give the Coordinator-General a revised draft EIS.
- (3) If the notice given under section 34B states that public notification of the additional information is required, the proponent must, within the period stated in the notice—
  - (a) comply with section 33 as if a reference in that section to a draft EIS were a reference to the additional information stated in the notice; and
  - (b) give the Coordinator-General a revised draft EIS.
- (4) Submissions about the additional information may be made under section 34 as if the information were a draft EIS.

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- (5) If the Coordinator-General receives a revised draft EIS under subsection (2) or (3), sections 34A and 34B apply to the revised draft EIS—
- (a) as if a reference in section 34A(1) to the end of the submission period for the draft EIS were a reference to the day the Coordinator-General receives the revised draft EIS; and
  - (b) as if a reference in section 34A(1)(a)(ii) to a properly made submission for the draft EIS were a reference to a properly made submission for the additional information; and
  - (c) with any other necessary changes.

### **34D Report evaluating EIS**

- (1) This section applies if the Coordinator-General decides under section 34A(1)(b) to accept the draft EIS as the final EIS.
- (2) The Coordinator-General must prepare a report evaluating the EIS.
- (3) In evaluating the EIS, the Coordinator-General may—
  - (a) evaluate the environmental effects of the project and any other related matters; and
  - (b) state conditions under section 39, 45, 47C, 49B, 49E or 49G; and
  - (c) make recommendations under section 43 or 52; and
  - (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.
- (4) After completing the report, the Coordinator-General must—
  - (a) give a copy of the report to the proponent; and
  - (b) publicly notify the report.

## **Subdivision 2 IAR process**

### **34E Application of sdiv 2**

This subdivision applies to a coordinated project for which an IAR is required.

### **34F Notice of requirement for IAR**

The Coordinator-General must, as soon as practicable after making a declaration under section 26(1)(b), give the proponent written notice that an IAR is required for the project.

### **34G Preparation of draft IAR**

- (1) The proponent of the project must prepare a draft IAR for the project.
- (2) The draft IAR must include—
  - (a) details of the project; and
  - (b) information about the likely environmental effects of the project; and
  - (c) a statement about whether or not any of the following approvals (each of which is a *notifiable approval*) is required for the project—
    - (i) a development approval if the development application for the approval would, under the Planning Act, require impact assessment;
    - (ii) an environmental authority if the application for the authority would, under the Environmental Protection Act, chapter 5, part 4, require public notification;
    - (iii) another approval under an Act if—
      - (A) the application for the approval requires, other than under the Planning Act or the



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Environmental Protection Act, chapter 5, an EIS or a similar statement to address the environmental effects of the approval; and

- (B) the application for, or the granting of, the approval requires public notification under the relevant Act.

### **34H Public notification of draft IAR**

- (1) This section applies if—
  - (a) a notifiable approval is required for the project; or
  - (b) the Coordinator-General gives the proponent a written notice stating that the draft IAR for the project must be publicly notified under this section.
- (2) After the proponent prepares a draft IAR to the satisfaction of the Coordinator-General, the proponent must comply with section 33 as if a reference in that section to a draft EIS were a reference to the draft IAR.
- (3) Submissions about the draft IAR may be made under section 34 as if the draft IAR were a draft EIS.
- (4) In deciding whether the draft IAR may be publicly notified, the Coordinator-General may ask any person for information, advice or comment about the draft IAR.

### **34I Coordinator-General decides whether to accept draft IAR as final IAR**

- (1) The Coordinator-General must—
  - (a) consider the following—
    - (i) the draft IAR;
    - (ii) any properly made submissions for the draft IAR;
    - (iii) any other material the Coordinator-General considers is relevant to the project; and

- (b) decide whether or not to accept the draft IAR as the final IAR.
- (2) However, subsection (1) does not apply until after—
  - (a) if the draft IAR required public notification under section 34H—the submission period for the draft IAR ends; or
  - (b) otherwise—the Coordinator-General receives the draft IAR.
- (3) The Coordinator-General may decide not to accept the draft IAR as the final IAR if satisfied additional information is needed about—
  - (a) an environmental effect of the project; or
  - (b) any other matter the Coordinator-General considers relevant to the project.
- (4) In making a decision under subsection (1)(b), the Coordinator-General may ask any person for information, advice or comment about the draft IAR.

### **34J Giving notice of decision**

- (1) The Coordinator-General must give the proponent written notice of the Coordinator-General's decision under section 34I.
- (2) If the Coordinator-General decides not to accept the draft IAR as the final IAR, the notice must state the following—
  - (a) the decision;
  - (b) the additional information required;
  - (c) whether or not public notification of the draft IAR as amended to include or attach the additional information (the *revised draft IAR*) is required;
  - (d) the period within which the revised draft IAR must be given to the Coordinator-General.

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### **34K Requirement to provide additional information**

- (1) This section applies if the Coordinator-General decides under section 34I(1)(b) not to accept the draft IAR as the final IAR.
- (2) If the notice given under section 34J states that public notification of the revised draft IAR is not required, the proponent must, within the period stated in the notice, give the Coordinator-General the revised draft IAR.
- (3) If the notice given under section 34J states that public notification of the revised draft IAR is required, the proponent must, within the period stated in the notice—
  - (a) comply with section 33 as if a reference in that section to a draft EIS were a reference to the revised draft IAR; and
  - (b) give the Coordinator-General the revised draft IAR.
- (4) Submissions about the revised draft IAR may be made under section 34 as if the revised draft IAR were a draft EIS.
- (5) If the Coordinator-General receives a revised draft IAR under subsection (2) or (3), sections 34I and 34J apply to the revised draft IAR.

### **34L Report evaluating IAR**

- (1) This section applies if the Coordinator-General decides under section 34I(1)(b) to accept the draft IAR as the final IAR.
- (2) The Coordinator-General must prepare a report evaluating the IAR.
- (3) In evaluating the IAR, the Coordinator-General may—
  - (a) evaluate the environmental effects of the project and any other related matters; and
  - (b) state conditions under section 39, 45, 47C, 49B, 49E or 49G; and
  - (c) make recommendations under section 43 or 52; and
  - (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.

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- (4) After completing the report, the Coordinator-General must—
  - (a) give a copy of the report to the proponent; and
  - (b) publicly notify the report.

### **Subdivision 3      Amendment and lapsing of Coordinator-General's report**

#### **35AA Amendment of Coordinator-General's report**

- (1) The Coordinator-General may amend the report for the EIS or IAR for the project if the amendment is to correct a clerical error.
- (2) The Coordinator-General must give written notice of the amendment to—
  - (a) the proponent; and
  - (b) if the project is the subject of an application for a development approval and the Coordinator-General is not the assessment manager for the application—the assessment manager for the application.
- (3) The Coordinator-General must publicly notify—
  - (a) the amendment; and
  - (b) the report as amended.
- (4) The amendment has effect when the proponent is given notice of the amendment under subsection (2).

#### **35A Lapsing of Coordinator-General's report**

- (1) The Coordinator-General's report for the EIS or IAR for a project lapses—
  - (a) if the report for the EIS or IAR states or implies a time for the report to lapse—at the stated or implied time; or
  - (b) otherwise—3 years after the day the report is publicly notified under section 34D(4)(b) or 34L(4)(b).

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- (2) Subsection (3) applies if—
- (a) the project the subject of the Coordinator-General's report requires 1 or more relevant approvals; and
  - (b) the proponent applies for each relevant approval before the Coordinator-General's report would otherwise lapse under subsection (1).
- (3) Despite subsection (1), the Coordinator-General's report does not lapse, to the extent it relates to the relevant approval applied for, until—
- (a) if the application for the relevant approval is refused—the application is decided and any appeal against the decision is finalised or withdrawn; or
  - (b) if the application for the relevant approval is approved—the approval takes effect.
- (4) Subsection (5) applies if, before the report would otherwise lapse under subsection (1) or (3), the Coordinator-General gives the proponent written notice stating a later time for the report to lapse.
- (5) Despite subsections (1) and (3), the Coordinator-General's report does not lapse until the later time stated in the notice.
- (6) Subsection (7) applies if—
- (a) division 8 applies to the project; and
  - (b) the undertaking of the project substantially starts before the Coordinator-General's report would otherwise lapse under subsection (1), (3) or (5).
- (7) Despite subsections (1), (3) and (5), the Coordinator-General's report does not lapse and continues to have effect to the extent it imposes conditions for the undertaking of the project.
- (8) In this section—
- relevant approval* means—
- (a) a development approval; or
  - (b) a mining lease under the Mineral Resources Act; or

[s 35B]

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- (c) an environmental authority; or
- (d) a petroleum lease, pipeline licence or petroleum facility licence under the *Petroleum and Gas (Production and Safety) Act 2004*; or
- (e) a GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*; or
- (f) a geothermal production lease under the *Geothermal Energy Act 2010*; or
- (g) another approval under an Act if the application for the approval requires, other than under the Planning Act or the Environmental Protection Act, chapter 5, an EIS or a similar statement to address the environmental effects of the approval.

## **Division 3A            Changes to project**

### **Subdivision 1        Assessment of changes to project                                  or conditions of project on                                  proponent's application**

#### **35B    Application of sdiv 1**

This subdivision applies if, after the Coordinator-General complies with section 34D(4) or 34L(4), the proponent wishes the Coordinator-General to assess a proposed change to the project or a condition of the project.

#### **35C    Application for evaluation of environmental effects of          proposed change**

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

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### **35E Requirements for application**

The application must be written and—

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

### **35F Coordinator-General may seek comments or information**

- (1) After receiving the application, the Coordinator-General may—
  - (a) refer details of the proposed change, its effects on the project or any other related matter to anyone the Coordinator-General considers may be able to give comments or information to help the making of the evaluation; and
  - (b) ask the proponent for further information about the proposed change, its effects on the project or any other related matter.
- (2) If the proponent does not comply with a request under subsection (1)(b) within a reasonable period after it is made, the Coordinator-General may make the evaluation without the further information.

### **35G Public notice**

- (1) The Coordinator-General must decide whether or not to require the proponent to publicly notify the proposed change and its effects on the project, in a way decided by the Coordinator-General.
- (2) The Coordinator-General must give the proponent a written notice (the *decision notice*) stating the decision, and if the decision was to make a requirement under subsection (1), the decided way of public notification.

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- (3) If the decision is to require public notification, the decision notice must be given before the evaluation is made.
- (4) Sections 33 and 34 apply to the public notification, and for submissions about the proposed change and its effect on the project, as if a reference in those sections to a draft EIS were a reference to the proposed change or the effects.
- (5) Subsections (6) to (8) apply if the decision is not to require public notification.
- (6) If the Coordinator-General is of the opinion that the proposed change might be approved unconditionally, the Coordinator-General may defer giving the decision notice.
- (7) If the Coordinator-General's opinion under subsection (6) changes or if the Coordinator-General is not of that opinion, the Coordinator-General must immediately give the decision notice.
- (8) If the proposed change is approved unconditionally, the decision notice must accompany the Coordinator-General's change report when it is given to the proponent under section 35J.
- (9) In this section—  
*approved unconditionally*, for the proposed change, means that the evaluation allows the change without the Coordinator-General doing anything mentioned in section 35I(2).

### **35H Criteria for evaluating proposed change**

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

- (a) the nature of the proposed change and its effects on the project;
- (b) the project as currently evaluated under the Coordinator-General's report for the EIS or IAR for the project;



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- (c) the environmental effects of the proposed change and its effects on the project;
  - (d) if, under section 35G, public notification was required—all properly made submissions about the proposed change and its effects on the project;
  - (e) if the change relates to a project for which an EIS was required—the material mentioned in section 34A(1)(a) to the extent the Coordinator-General considers it is relevant to the proposed change and its effects on the project;
  - (f) if the change relates to a project for which an IAR was required—the material mentioned in section 34I(1)(a) to the extent the Coordinator-General considers it is relevant to the proposed change and its effects on the project.

### **35I Coordinator-General's change report**

- (1) The Coordinator-General must prepare a report (a *Coordinator-General's change report*) that makes the evaluation.
- (2) In making the evaluation, the Coordinator-General may—
  - (a) state conditions of a type mentioned in section 39, 45, 47C, 49B, 49E or 49G that are relevant to the proposed change, its effects on the project or any other related matter; and
  - (b) make recommendations of a type mentioned in section 43 or 52 that are relevant to the proposed change, its effects on the project or any other related matter; and
  - (c) amend any conditions or recommendations for the project stated or made under section 34D(3) or 34L(3); and
  - (d) if division 8 applies to the project—impose, under that division, conditions for the undertaking of the project.

[s 35J]

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- (3) The evaluation may refuse to allow the proposed change.
- (4) If the evaluation refuses to allow the proposed change, it must state reasons for the refusal.

### **35J Distribution of Coordinator-General's change report**

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

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

### **35K Relationship with Coordinator-General's report**

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

### **35KA Amendment of Coordinator-General's change report**

- (1) The Coordinator-General may amend a change report if the amendment is to correct a clerical error.
- (2) The Coordinator-General must give written notice of the amendment to—
  - (a) the proponent; and
  - (b) if the project is the subject of an application for a development approval and the Coordinator-General is not the assessment manager for the application—the assessment manager for the application.
- (3) The Coordinator-General must publicly notify—
  - (a) the amendment; and
  - (b) the change report as amended.

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- (4) The amendment has effect when the proponent is given notice of the amendment under subsection (2).

### **35L Lapsing of Coordinator-General's change report**

- (1) The Coordinator-General's change report for a project lapses—
- (a) generally—at the same time as the Coordinator-General's report for the EIS or IAR for the project lapses under section 35A; or
  - (b) if the change report states a different day—on the day stated in the change report.
- (2) Subsection (3) applies if—
- (a) division 8 applies to the project; and
  - (b) the Coordinator-General's report for the EIS or IAR for the project continues to have effect but only to the extent it imposes conditions for the undertaking of the project.
- (3) Despite subsection (1), the Coordinator-General's change report for the project does not lapse until the day stated in the change report.

## **Subdivision 2 Assessment of changes to project on Coordinator-General's own initiative**

### **35M Application of sdiv 2**

This subdivision applies if, after the Coordinator-General complies with section 34D(4) or 34L(4) for a coordinated project, the Coordinator-General wishes to assess a proposed change to the project on his or her own initiative.

### **35N Procedure for making assessment**

- (1) The Coordinator-General may assess the proposed change under this section.
- (2) The Coordinator-General must give the proponent of the coordinated project written notice stating—
  - (a) that the Coordinator-General proposes to assess a stated proposed change to the project; and
  - (b) the reasons for the proposed assessment; and
  - (c) that the proponent may, within 5 business days after receiving the notice, give the Coordinator-General the proponent's written views about whether the proposed assessment should be made.
- (3) The Coordinator-General may, whether or not the 5 business days has elapsed, extend the time allowed under subsection (2)(c) for the proponent to give the written views.
- (4) If, after considering any written views given to the Coordinator-General under subsection (2)(c), the Coordinator-General decides to make the assessment, the Coordinator-General must give the proponent a written notice stating—
  - (a) the decision and the reasons for it; and
  - (b) that within 20 business days after receiving the notice the proponent must apply to the Coordinator-General to evaluate under subdivision 1 the environmental effects of the proposed change, its effects on the project and any other related matters.
- (5) Subdivision 1, other than sections 35B and 35C, apply in relation to the application as if it were an application made under the subdivision.

*Example—*

The application must comply with section 35E as if the application were an application made under the subdivision.

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- (6) The Coordinator-General may, if asked in writing by the proponent, extend the time under subsection (4)(b) before the end of the 20 business days.
  - (7) The proponent must comply with a requirement under subsection (4)(b).  
Maximum penalty—1,665 penalty units.

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

### **Subdivision 1        Development approvals**

#### **36        Application of sdiv 1**

This subdivision applies if—

- (a) the project involves development requiring a development approval; and
- (b) any or all of the following applications (each a *relevant application*) is made—
  - (i) a development application for the development approval;
  - (ii) a change application, other than a minor change application, to change a development approval that approves part of the development;
  - (iii) a change application, other than a minor change application, to change a development approval to approve part of the development; and
- (c) the Coordinator-General's report for the EIS or IAR for the project has not lapsed under section 35A.

**37 Applications for material change of use or requiring impact assessment**

- (1) To the extent the relevant application relates to a material change of use of premises, or requires impact assessment, under the Planning Act—
  - (a) the application does not require public notification under the Planning Act, section 53; and
  - (b) there are no referral agencies under the Planning Act for the application; and
  - (c) a properly made submission about either of the following is taken to be a properly made submission about the application for the Planning Act, chapter 3—
    - (i) a draft EIS or draft IAR for the project;
    - (ii) any additional information, required by the Coordinator-General for the project, that was publicly notified under section 34C(3); and
  - (d) despite paragraph (b), until any development approval for the application has effect—
    - (i) the Coordinator-General's report for the EIS or IAR for the project is taken to be a referral agency's response for the application for the Planning Act, chapter 3; and
    - (ii) the Coordinator-General may exercise any power of an entity as a referral agency that, other than for paragraph (b), would have been a referral agency for the application.
- (2) Subsection (1)(c) does not apply if the application involves only a material change of use requiring code assessment under the Planning Act.
- (3) In this section—

***material change of use*** see the Planning Act, schedule 2.

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**38 When decision-making period for relevant application starts**

- (1) If the relevant application is a development application, the decision-making period for the application does not start until—
  - (a) if the Coordinator-General is not the assessment manager for the application—the Coordinator-General gives the assessment manager a copy of the relevant Coordinator-General’s report for the project; or
  - (b) if the Coordinator-General is the assessment manager for the application—the Coordinator-General gives the proponent a copy of the relevant Coordinator-General’s report for the project.
- (2) If the relevant application is a change application for a development approval, the decision-making period for the application does not start until—
  - (a) if the Coordinator-General is not the responsible entity for the application—the Coordinator-General gives the responsible entity a copy of the relevant Coordinator-General’s report for the project; or
  - (b) if the Coordinator-General is the responsible entity for the application—the Coordinator-General gives the proponent a copy of the relevant Coordinator-General’s report for the project.
- (3) In this section—

*relevant Coordinator-General’s report*, for a project, means—

  - (a) if the project requires an EIS—the Coordinator-General’s report for the EIS; or
  - (b) if the project requires an IAR—the Coordinator-General’s report for the IAR.

**39 Application of Coordinator-General's report to assessment of relevant application under Planning Act**

- (1) The Coordinator-General's report for the EIS or IAR for the project may state any of the following for development relating to the project—
  - (a) that any development approval given for the development must be subject to stated conditions;
  - (b) that any development approval given must be only for a stated part of the development;
  - (c) that any development approval given must be a preliminary approval only.
- (2) Alternatively, the report may state that—
  - (a) the Coordinator-General has no conditions or requirements for the development; or
  - (b) a development approval for the development must not be given.
- (3) The decision maker for the relevant application must comply with a matter stated in the report under subsection (1) or (2).
- (4) To remove any doubt, it is declared that subsection (1)(a) does not limit the power of the decision maker for the application to—
  - (a) assess the application; and
  - (b) impose conditions on any development approval given, if the conditions are not inconsistent with conditions stated under subsection (1)(a).
- (5) The report may state that a development approval must not be given for the development only if the Coordinator-General is satisfied there are environmental effects in relation to the development that can not be addressed adequately.
- (6) The report must give reasons for the statement mentioned in subsection (2)(b).
- (7) If the Coordinator-General's report provides for a condition that must be attached to any development approval—



- (a) the report may state the entity that is to have jurisdiction for the condition after the development approval starts to have effect under the Planning Act, section 71; and
  - (b) the condition is taken to be a condition that a referral agency requires be imposed on any development approval under the Planning Act.
- (8) If there is any inconsistency between a condition mentioned in subsection (1)(a) for a development approval and a condition a referral agency has required be imposed on the approval under the Planning Act, the condition mentioned in subsection (1)(a) prevails to the extent of the inconsistency.

#### **40 Decision maker to be given copy of Coordinator-General's report**

If the Coordinator-General is not the decision maker for a relevant application, the Coordinator-General must give a copy of the Coordinator-General's report for the EIS or IAR for the project to the decision maker for the relevant application.

#### **41 Referral agencies for conditions of development approvals**

- (1) Subsection (2) applies if, in the Coordinator-General's report for the EIS or IAR for the project, the Coordinator-General nominates an entity as a referral agency for a development approval, including a condition of the approval, given in relation to the report.
- (2) The entity is, from the day the approval takes effect, taken to be a referral agency for the development application that resulted in the approval, including the condition of the approval.
- (3) This section applies despite section 37(1)(b).

**42A Application of Coordinator-General's change report to assessment of relevant application under Planning Act**

- (1) This section applies if, under section 35J(a), the proponent is given a Coordinator-General's change report.
- (2) The Coordinator-General must give a copy of the change report to the decision maker for the relevant application.
- (3) The change report is taken to be a referral agency's response for the Planning Act for the application.
- (4) The referral agency's response mentioned in section 37(1)(d)(i) ceases to have effect for the application.
- (5) Subsection (6) applies if the change report was given to the proponent—
  - (a) after the decision-making period for the application started; but
  - (b) before the decision maker has decided the application.
- (6) Despite the Planning Act, the decision-making period for the application—
  - (a) ends on the day the Coordinator-General gives the proponent a copy of the change report; and
  - (b) starts again from its beginning on the day after the decision maker receives a copy of the change report.
- (7) Subsection (8) applies if—
  - (a) the change report was given to the proponent after the decision maker decided the application (the ***original application***); and
  - (b) the proposed change the subject of the change report involves—
    - (i) assessable development that is not approved by a development approval; or
    - (ii) changes to assessable development approved by a development approval; and
  - (c) the proponent proposes to carry out the assessable development or assessable development as changed.

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- (8) The proponent must take, or cause to be taken, the required steps under the Planning Act to obtain approval of the assessable development or changes to the assessable development.
  - (9) Sections 37 to 41 apply to the obtaining of the approval as if—
    - (a) a reference to the Coordinator-General’s report for the EIS or IAR for the project were a reference to the change report; and
    - (b) a reference to a properly made submission about the draft EIS or draft IAR were a reference to a properly made submission about the proposed change.
  - (10) Subsection (8) applies in relation to the changes to the assessable development even if there is an undecided appeal against the decision on the original application.

## **Subdivision 2      Designation of premises under Planning Act for development of infrastructure**

### **43      Application of Coordinator-General’s report to designation**

- (1) This section applies if the project involves premises for which a designation under the Planning Act, chapter 2, part 5 may be made.
- (2) The Coordinator-General’s report for the EIS or IAR for the project may recommend requirements for inclusion in the designation under the Planning Act, section 35(2)(a) or (b).
- (3) In making the designation, the designator may have regard to the recommendation.

## **Division 5                      Relationship with Mineral Resources Act**

### **44            Application of div 5**

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

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

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

### **46            Coordinator-General's conditions override other conditions**

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

*Coordinator-General's condition* means—

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

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

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

**Division 6 Relationship with Environmental Protection Act**

**47B Application of div 6**

This division applies if the project involves a proposed environmental authority under the Environmental Protection Act.

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

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions for—
  - (a) the proposed environmental authority; and

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- (b) any proposed PRCP schedule relating to the environmental authority under the Environmental Protection Act.
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the EPA Minister a copy of the report.

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

### **49A      Application of div 6A**

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

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

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

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

- (1) This section applies if—
  - (a) the project involves a proposed petroleum lease; and
  - (b) there is any inconsistency between—
    - (i) a Coordinator-General's condition stated under section 49B; and

- (ii) a condition for the granting of the proposed petroleum lease determined or declared under the *Native Title Act 1993* (Cwlth) section 36A, 38 or 42.
- (2) The Coordinator-General's condition does not apply to the extent of the inconsistency.

## **Division 6B                      Relationship with Greenhouse Gas Storage Act 2009**

### **49D      Application of div 6B**

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

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

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

## **Division 6C                      Relationship with Geothermal Energy Act 2010**

### **49F      Application of div 6C**

This division applies if the project involves a proposed geothermal production lease under the *Geothermal Energy Act 2010*.

#### **49G Application of Coordinator-General's report to proposed lease**

- (1) The Coordinator-General's report for the EIS or IAR for the project may state conditions for the proposed lease.
- (2) If conditions under subsection (1) are included in the report, the Coordinator-General must give the Minister of the department in which the *Geothermal Energy Act 2010* is administered a copy of the report.

### **Division 7 Relationship with other legislation**

#### **50 Application of div 7**

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

#### **51 EIS under this part is EIS for other Act**

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

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

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



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

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

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

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

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

**54A Application of div 8**

This division applies to the extent that—

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

**54B Report may impose conditions**

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

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

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

#### **54C Provision for what conditions may be imposed**

The Planning Act, section 65 applies for imposed conditions for the undertaking of the project as if the conditions were, under that Act, conditions of a development approval being decided by an assessment manager for a development application.

#### **54D Effect of imposed conditions**

- (1) This section applies if there are imposed conditions for the undertaking of the project.
- (2) The Planning Act, section 164 applies to the undertaking of the project as if—
  - (a) the project were development under that Act; and

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- (b) the imposed conditions were a development approval for the development.
  - (3) The Environmental Protection Act, sections 437 to 440 and 493A apply to the undertaking of the project as if the imposed conditions were development conditions under that Act for a development approval for the project.
  - (4) To remove any doubt, it is declared that the provisions mentioned in subsections (2) and (3) apply to anyone who undertakes the project, including, for example—
    - (a) the proponent; and
    - (b) any of the following who undertake the project—
      - (i) an agent, contractor or subcontractor or licensee of the proponent;
      - (ii) an agent, contractor or subcontractor or licensee of a person mentioned in subparagraph (i).
  - (5) Also, it is declared that—
    - (a) the Planning Act, section 227 applies in relation to an offence against section 164 of that Act; and
    - (b) the Environmental Protection Act, section 493 applies in relation to an offence against sections 437 to 440 and 493A of that Act.

#### **54E Imposed conditions override conditions of other approvals**

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

#### **54F Provision about enforcement orders under the Planning Act**

- (1) This section applies if—

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

#### **54G Declaration-making powers**

- (1) A proceeding mentioned in the *Planning and Environment Court Act 2016*, section 11 can not be started in relation to the project.
- (2) However, a person mentioned in section 54F(2) may bring a proceeding in the Planning and Environment Court for a declaration about whether there has been substantial compliance with an imposed condition for the undertaking of the project.
- (3) The court may also make an order about any declaration it makes under subsection (2).
- (4) The court may, in deciding what orders it is to make in the proceeding, have regard to 1 or more of the following—

- (a) the laws and policies applying when the condition was imposed;
- (b) the EIS or IAR for the project;
- (c) the Coordinator-General's report for the EIS or IAR and any Coordinator-General's change report for the project;
- (d) the financial implications of—
  - (i) the imposed conditions for the undertaking of the project; or
  - (ii) any proposed orders;
- (e) the public interest;
- (f) any environmental management plan required under the condition;
- (g) any other matter the court considers relevant.

## **Part 4A                      Assessment and approval of particular coordinated projects under bilateral agreement**

### **Division 1                      Preliminary**

#### **54H      Application and purpose of pt 4A**

- (1) This part applies if—
  - (a) a bilateral agreement made under the Commonwealth Environment Act—
    - (i) is in force between the State and the Commonwealth; and
    - (ii) declares that actions in a class of actions specified in the agreement do not require approval under the Commonwealth Environment Act, part 9 for specified provisions because the actions have been

- approved under a bilaterally accredited authorisation process; and
- (b) this part has been accredited by the Commonwealth Minister under the Commonwealth Environment Act, section 46(2A), as the authorisation process for the purposes of the bilateral agreement.
- (2) The purpose of this part is to provide for a process, to be accredited as mentioned in subsection (1)(b), for coordinated projects that are within the scope of the bilateral agreement to be—
- (a) assessed in relation to their likely impact on particular environmental matters that are otherwise regulated under the Commonwealth Environment Act; and
- (b) approved, either with or without conditions to protect, repair or mitigate damage to the environmental matters, or refused.
- (3) For this part, a coordinated project is *within the scope of the bilateral agreement* if the project—
- (a) is an action within the class of actions specified in the agreement that the declaration mentioned in subsection (1)(a)(ii) applies to; and
- (b) has had, will have or is likely to have an impact on an environmental matter protected by a specified provision.

## 54I Definitions for pt 4A

In this part—

*accepted submissions*, for a coordinated project or amendment application, means either or both of the following—

- (a) all of the properly made submissions received about the project or application;
- (b) any other submissions about the project or the application accepted by the Coordinator-General;

to the extent the submissions relate to an environmental matter protected by a specified provision or another provision of the Commonwealth Act, part 3.

**action** see the Commonwealth Environment Act, sections 523, 524 and 524A.

**assessment report** see section 54W(4).

**bilateral agreement** means the bilateral agreement mentioned in section 54H(1)(a) as in force from time to time.

**bilaterally accredited authorisation process** see the Commonwealth Environment Act, section 46(2A).

**bilateral project declaration** see section 54J(1).

**coordinated project declaration** means a declaration made by the Coordinator-General as mentioned under section 26(1)(a) or (b).

**environmental approval** means—

- (a) an approval issued under section 54Y that approves the undertaking of a coordinated project for each environmental matter protected by a specified provision stated in the approval; or
- (b) if that approval is amended as mentioned in section 54ZE—the amended approval issued under that section.

**environmental law** means a law of the Commonwealth or a State about the protection of the environment or the conservation and sustainable use of natural resources.

**environmental matter protected** means a matter protected by a provision of the Commonwealth Environment Act, part 3, as mentioned in section 34 of that Act.

**environmental record**, of a proponent or proposed new proponent of a coordinated project, means—

- (a) any proceedings under an environmental law to which the proponent has been a party; and

- (b) if the proponent is a corporation—the proponent’s environmental policies and planning framework; and
- (c) if the proponent is a corporation that is the subsidiary of another corporation (the *parent corporation*)—
  - (i) any proceedings under an environmental law to which the parent corporation has been a party; and
  - (ii) the parent corporation’s environmental policies and planning framework.

*impact* see the Commonwealth Environment Act, section 527E.

*information requirement notice* see section 54S(2).

*protected matters report* means a report about the likely impacts of a coordinated project on each environmental matter protected by a specified provision.

*reinstatement request* see section 54ZJA(2).

*specified provision* means a provision of the Commonwealth Environment Act specified in the bilateral agreement as a provision for which the agreement declares an action does not require approval under the Commonwealth Environment Act, part 9.

*within the scope of the bilateral agreement*, for a coordinated project, see section 54H(3).

## **Division 2                      Coordinated projects to be assessed under this part**

### **54J      Declaration for coordinated project for this part**

- (1) The Coordinator-General may declare (a *bilateral project declaration*) a coordinated project to be also a project to be assessed under this part for the purposes of the bilateral agreement.
- (2) The Coordinator-General may make a bilateral project declaration only if satisfied the coordinated project—



- (a) is within the scope of the bilateral agreement; and
  - (b) is not likely to have a significant impact on an environmental matter protected by a provision of the Commonwealth Environment Act, part 3, that is not a specified provision.
- (3) However, the Coordinator-General must not make a declaration under subsection (1) about a coordinated project that is any of the following—
- (a) an action that the Commonwealth Minister has decided, under the Commonwealth Environment Act, section 75, is not a controlled action;
  - (b) an action about which the Commonwealth Minister has made a decision, under the Commonwealth Environment Act, section 133, approving or refusing to approve the taking of the action;
  - (c) an action the Commonwealth Minister has decided the Commonwealth Environment Act, part 7, division 1A applies to because the action would have unacceptable impacts on an environmental matter protected.
- (4) A bilateral project declaration must be made by gazette notice.

#### **54K Application for declaration**

- (1) A person may apply to the Coordinator-General for a bilateral project declaration if the person is—
- (a) the applicant for a coordinated project declaration for a project; or
  - (b) the proponent of a coordinated project.
- (2) The application must—
- (a) be in writing; and
  - (b) briefly describe the impacts the project is likely to have on any environmental matter protected by a specified

provision or another provision of the Commonwealth Environment Act, part 3; and

- (c) include enough information about the project to allow the Coordinator-General to consider whether the project is a project mentioned in section 54J(2) or (3).
- (3) The application may be made at the same time an application for a coordinated project declaration for the project is made.

#### **54L Deciding application**

- (1) The Coordinator-General must consider and decide each application received under section 54K.
- (2) Section 54J(2) and (3) applies for making the decision.
- (3) Also, in making the decision, the Coordinator-General must consider the bilateral agreement.
- (4) If the Coordinator-General decides to refuse the application, the Coordinator-General must give the applicant written notice of the decision and the reasons for it.

#### **54M Cancellation of declaration**

- (1) The Coordinator-General may cancel a bilateral project declaration for a coordinated project before making a decision under section 54T if—
  - (a) the proponent of the project makes a written request to the Coordinator-General to cancel the declaration; or
  - (b) the coordinated project declaration for the project is cancelled under section 27AF; or
  - (c) the Coordinator-General is no longer satisfied about either or both of the matters mentioned in section 54J(2); or
  - (d) the Coordinator-General considers the project is a project mentioned in section 54J(3)(a) to (c).
- (2) If the Coordinator-General decides under subsection (1)(b) to (d) to cancel the declaration, the Coordinator-General must,

within 14 days after the decision, give the proponent written notice of the decision and the reasons for it.

- (3) A decision to cancel the declaration takes effect on the later of—
- (a) the day the written notice is given to the proponent; or
  - (b) the day of effect stated in the written notice.

### **54N Lapsing of declaration**

The bilateral project declaration for a coordinated project lapses if the coordinated project declaration for the project lapses.

*Note—*

See sections 27A and 27B.

## **Division 3 Assessment and approval process**

### **54O Application of div 3**

This division applies to a coordinated project if a bilateral project declaration has been made for the project.

### **54P Preparation of draft protected matters report**

- (1) The proponent for the coordinated project must prepare a draft protected matters report and give it to the Coordinator-General.
- (2) The Coordinator-General may, by written notice, require the proponent to include information about a stated matter in the draft protected matters report.
- (3) The draft protected matters report must include the information required by—
  - (a) a regulation; and

- (b) if the Coordinator-General gave the proponent a notice under subsection (2)—the notice.
- (4) The Coordinator-General may ask any person for information, advice or comment about the draft protected matters report.

#### **54Q Public notification of draft protected matters report**

- (1) This section applies after the proponent has prepared a draft protected matters report for the coordinated project to the satisfaction of the Coordinator-General.
- (2) The proponent must publicly notify the draft protected matters report.
- (3) However, the proponent must publicly notify the draft protected matters report under subsection (2) when complying with section 33 in relation to the coordinated project only if—
  - (a) the proponent is required to comply with section 33 in relation to the project; and
  - (b) the bilateral project declaration for the project was made before the proponent complied with section 33.
- (4) For publicly notifying the draft protected matters report as required by subsection (2)—
  - (a) section 33 applies as if a reference in that section to a draft EIS were to the report; and
  - (b) the proponent must comply with the requirements prescribed by regulation for the notification in a regulation; and
  - (c) submissions about the report may be made under section 34 as if the report were a draft EIS; and
  - (d) the submission period for the coordinated project set under section 33(1)(d) must be at least the minimum period prescribed by regulation.

**54R Proponent must finalise protected matters report after public notification**

- (1) After the end of the submission period for the coordinated project, the proponent must prepare a final protected matters report and give it to the Coordinator-General.
- (2) The final protected matters report must—
  - (a) summarise the accepted submissions; and
  - (b) state how the submissions have been addressed.

**54S Coordinator-General may seek further information or comments**

- (1) This section applies if, after receiving the final protected matters report under section 54R, the Coordinator-General considers further information is reasonably necessary for the Coordinator-General to consider the matters mentioned in section 54W.
- (2) The Coordinator-General may, by written notice (a *information requirement notice*), require the proponent to give the Coordinator-General the stated further information within the stated period.
- (3) The proponent must comply with the information requirement notice.
- (4) The Coordinator-General may—
  - (a) extend the stated period for an information requirement notice; or
  - (b) give the proponent more than 1 information requirement notice.
- (5) If the proponent does not comply with an information requirement notice within the stated period, the Coordinator-General may—
  - (a) make a decision under section 54T without the further information; or

- (b) refuse to make a decision until the notice is complied with to the Coordinator-General's satisfaction.
- (6) The Coordinator-General may ask any person for information, advice or comment about the final protected matters report or the coordinated project.

**54T Decision about approving undertaking of coordinated project**

- (1) This section applies after—
  - (a) the Coordinator-General has received the final protected matters report under section 54R; and
  - (b) the earlier of the following happens—
    - (i) the proponent complies with all information requirement notices relating to the final report;
    - (ii) each period stated in an information requirement notice relating to the final report has ended.
- (2) The Coordinator-General must decide—
  - (a) to approve the undertaking of all or part of the coordinated project in relation to each of the specified provisions; or
  - (b) to refuse to approve the project.
- (3) However, the Coordinator-General must not approve the undertaking of the coordinated project to the extent the project will impact an environmental matter protected by a specified provision in a way that, in the Coordinator-General's opinion, is unacceptable or unsustainable.
- (4) To remove any doubt, it is declared that if the Coordinator-General approves the undertaking of only part of a project, the balance of the project is refused.

## **54U Conditions**

- (1) This section applies if the Coordinator-General decides to approve the undertaking of the coordinated project in relation to a specified provision.
- (2) The Coordinator-General may decide to impose a condition in relation to the specified provision if satisfied the condition is necessary or convenient to—
  - (a) protect an environmental matter protected by the provision (whether or not the protection is from the impact of the coordinated project); or
  - (b) repair or mitigate damage to an environmental matter protected by the provision (whether or not the damage has been, will be or is likely to be caused by the coordinated project).
- (3) A condition may, for example, require 1 or more of the following—
  - (a) an environmental offset as mentioned in the bilateral agreement;
  - (b) a stated amount to be paid to a stated person for the purpose of activities related to protecting, or repairing or mitigating damage to, an environmental matter protected by the specified provision;
  - (c) an environmental audit of the coordinated project to be carried out periodically by a person who is independent of the project;
  - (d) the preparation and implementation of a plan to manage the impacts of the coordinated project on the environmental matters protected by the specified provision;
  - (e) stated environmental monitoring or testing to be carried out;
  - (f) compliance with a stated industry standard or code of practice.

- (4) However, the Coordinator-General may only impose a condition on an environmental approval for a coordinated project that is not reasonably related to the project if the proponent consents to the condition being imposed.
- (5) The proponent may not withdraw consent to the imposition of a condition under subsection (4) after the condition has been imposed on the environmental approval.

#### **54V Jurisdiction for conditions**

- (1) If the Coordinator-General imposes 1 or more conditions on an environmental approval for a coordinated project, the Coordinator-General may nominate an entity that is to have jurisdiction for the condition.
- (2) An entity may be nominated for 1 or more of the conditions.

#### **54W Criteria for decision**

- (1) This section applies to the Coordinator-General in deciding whether to issue an environmental approval for the coordinated project or impose conditions on the approval.
- (2) The Coordinator-General must—
  - (a) consider all of the following—
    - (i) the impacts the project has had, will have or is likely to have, on each environmental matter protected by a specified provision;
    - (ii) any criteria for the decision prescribed by regulation;
    - (iii) the protected matters report;
    - (iv) any further information provided under a notice under section 54S(2);
    - (v) any information, advice or comment given under section 54S(6);
    - (vi) all accepted submissions for the project; and



- (b) ensure the approval and conditions are not inconsistent with the bilateral agreement.
- (3) Also, the Coordinator-General may consider—
  - (a) the proponent’s environmental record; and
  - (b) any other matter the Coordinator-General considers relevant.
- (4) The Coordinator-General must prepare a report (an *assessment report*) that—
  - (a) demonstrates the Coordinator-General’s consideration of the matters mentioned in subsections (2) and (3); and
  - (b) identifies the information and opinions, and the source of the information and opinions, on which the consideration is based.

#### **54X Notice of decision**

The Coordinator-General must give the proponent written notice of the Coordinator-General’s decisions under sections 54T and 54U and a copy of the assessment report.

#### **54Y Issuing environmental approval**

- (1) If the Coordinator-General’s decision under section 54T is to approve the undertaking of all or part of the coordinated project, the Coordinator-General must issue an environmental approval to the proponent.
- (2) The environmental approval must state each of the following—
  - (a) the proponent’s name;
  - (b) the project, or part of the project, for which the approval is given;
  - (c) each specified provision for which the approval is given;
  - (d) the period for which the approval has effect;

- (e) the conditions of the approval;
- (f) for each condition—the nominated entity with jurisdiction for the condition.

## **Division 4                      Amendment of environmental approval**

### **54Z      Application for amendment**

- (1) A proponent may apply to the Coordinator-General to amend an environmental approval (an *amendment application*) to—
  - (a) change the coordinated project for which the approval is given; or
  - (b) change a condition of the approval; or
  - (c) extend the period for which the approval has effect; or
  - (d) change the proponent of the coordinated project.
- (2) The amendment application must—
  - (a) be in writing; and
  - (b) describe the proposed amendment and the reasons for it; and
  - (c) briefly describe the impacts the proposed amendment is likely to have on any environmental matter protected by a specified provision or another provision of the Commonwealth Environment Act, part 3; and
  - (d) include enough information about the proposed amendment to allow the Coordinator-General to consider the matters mentioned in section 54ZC(3); and
  - (e) if the application is to change the proponent of the coordinated project—
    - (i) be accompanied by the written consent of the proposed new proponent; and

- (ii) include information about the environmental record of the proposed new proponent.

#### **54ZA Coordinator-General may seek further information or comments**

- (1) After receiving an amendment application, the Coordinator-General may—
  - (a) by notice ask the proponent for further information about the proposed amendment, its effects on the coordinated project or another related matter; and
  - (b) ask any person for information, advice or comment about the application.
- (2) If the proponent does not comply with a notice under subsection (1)(a) within a reasonable period, the Coordinator-General may—
  - (a) decide the amendment application without the further information; or
  - (b) refuse to decide the application until the notice is complied with to the Coordinator-General's satisfaction.

#### **54ZB Public notification of amendment application**

- (1) The proponent must publicly notify the amendment application.
- (2) For publicly notifying the amendment application as required by subsection (1)—
  - (a) section 33 applies as if a reference in that section to a draft EIS were to the application; and
  - (b) the public notification must comply with the requirements prescribed by regulation for the notification; and
  - (c) submissions about the application may be made under section 34 as if the application were a draft EIS; and

- (d) the submission period for the project set under section 33(1)(d) must be at least the minimum period prescribed by regulation.
- (3) This section does not apply to an amendment application to the extent the application is to—
  - (a) extend the period for which an environmental approval has effect; or
  - (b) change the proponent of the coordinated project.

### **54ZC Deciding amendment application**

- (1) The Coordinator-General must decide whether to approve or refuse each amendment application.
- (2) If an amendment application is required to be notified under section 54ZB(1), the Coordinator-General must not decide the application until the submission period has ended.
- (3) In deciding an amendment application, the Coordinator-General must—
  - (a) consider all of the following—
    - (i) any impacts the proposed amendment is likely to have on each environmental matter protected by a specified provision;
    - (ii) any further information about the proposed amendment received under section 54ZA;
    - (iii) any criteria for the decision prescribed by regulation;
    - (iv) all accepted submissions for the application;
    - (v) the matters mentioned in section 54J(2); and
  - (b) ensure the amended environmental approval and conditions are not inconsistent with the bilateral agreement.
- (4) Also, the Coordinator-General may consider—

- (a) the proponent's environmental record or, for an amendment application for a change of proponent, the proposed new proponent's environmental record; and
  - (b) any other matter the Coordinator-General considers relevant.
- (5) If the Coordinator-General decides to approve an amendment application, the Coordinator-General may also decide to—
- (a) amend or remove a condition of the environmental approval; or
  - (b) impose a further condition.
- (6) Section 54U applies for a decision under subsection (5).

#### **54ZD Notice of decision**

The Coordinator-General must give the proponent written notice of the Coordinator-General's decision under section 54ZC and the reasons for it.

#### **54ZE Issuing amended environmental approval**

If the Coordinator-General's decision under section 54ZC is to approve the amendment application, the Coordinator-General must—

- (a) amend the environmental approval to give effect to the amendment; and
- (b) issue the amended approval to the proponent or, if applicable, the new proponent.

## **Division 5**

# **Cancelling or suspending environmental approval**

### **54ZF Cancellation or suspension at proponent's request**

- (1) This section applies if the proponent of a coordinated project makes a written request to the Coordinator-General to cancel or suspend the approval in relation to a specified provision.
- (2) The Coordinator-General may, by written notice to the proponent, cancel the environmental approval, or suspend it for the period stated in the notice, in relation to the specified provision.

### **54ZG Cancellation or suspension for grounds including contravention or unforeseen significant impact**

- (1) The Coordinator-General may cancel an environmental approval, or suspend it for a period, in relation to a specified provision if the Coordinator-General reasonably believes a ground for cancellation or suspension mentioned in subsection (2), (3) or (4) exists.
- (2) An environmental approval may be cancelled or suspended in relation to a specified provision if—
  - (a) the approval or a condition of the approval has been contravened; and
  - (b) either—
    - (i) the contravention has caused a significant impact on the environmental matter protected by the specified provision; or
    - (ii) because of the contravention, cancelling or suspending the approval is reasonably necessary to protect the environmental matter protected by the specified provision.
- (3) An environmental approval may be cancelled or suspended in relation to a specified provision if—

- (a) the coordinated project has had, will have or is likely to have a significant impact on the environmental matter protected by the specified provision; and
  - (b) the impact was not identified during the assessment of the project; and
  - (c) the approval would not have been issued, or would have been issued with particular conditions, if information about the impact were available to the Coordinator-General during the assessment of the project.
- (4) An environmental approval may be cancelled or suspended in relation to a specified provision if—
- (a) information provided to the Coordinator-General during the assessment of the project did not accurately identify the likely impacts of the coordinated project on the environmental matter protected by the specified provision; and
  - (b) the information was inaccurate because of the proponent’s negligence or deliberate act or omission.
- (5) In this section—
- assessment**, of a coordinated project, means either or both of the following—
- (a) the Coordinator-General’s assessment of the project under division 3 for the purpose of deciding whether to issue an environmental approval or impose a condition on the approval;
  - (b) if the environmental approval for the project was amended under division 4—the Coordinator-General’s consideration of an amendment application for the project under division 4 for the purpose of deciding whether to amend the approval or a condition of the approval.

### **54ZH Notice of proposed cancellation or suspension**

- (1) Before cancelling or suspending an environmental approval in relation to a specified provision under section 54ZG(1), the Coordinator-General must give the proponent for the coordinated project a notice stating—
  - (a) that the Coordinator-General proposes to—
    - (i) cancel the approval; or
    - (ii) suspend the approval for the stated period; and
  - (b) the ground for the proposed cancellation or suspension; and
  - (c) that the proponent may, within a stated time of at least 14 days, give the Coordinator-General a written response to the proposed cancellation or suspension.
- (2) The Coordinator-General must consider any response given by the proponent within the stated time.

### **54ZI Notice of cancellation or suspension decision**

- (1) If the Coordinator-General decides under section 54ZG(1) to cancel or suspend an environmental approval in relation to a specified provision, the Coordinator-General must, within 14 days after the decision, give the proponent written notice of the decision and the reasons for it.
- (2) If the decision is to suspend the environmental approval in relation to a specified provision—
  - (a) the notice must state the period of the suspension (the *suspension period*); and
  - (b) during the suspension period, the specified provision applies to the coordinated project the subject of the environmental approval as if the approval had not been given.
- (3) A decision to cancel or suspend the environmental approval takes effect on the later of the following—
  - (a) the day the written notice is given to the proponent;



- (b) the day of effect stated in the written notice.

### **54ZJ Issuing amended environmental approval**

- (1) This section applies if an environmental approval remains in force for 1 or more specified provisions after a decision of the Coordinator-General under section 54ZG(1) to cancel the approval in relation to a specified provision takes effect.
- (2) The Coordinator-General must—
  - (a) amend the environmental approval to give effect to the partial cancellation of the approval; and
  - (b) issue the amended environmental approval to the proponent.
- (3) However, if a reinstatement request in relation to the cancellation is approved under section 54ZJC—
  - (a) subsection (2) does not apply; and
  - (b) any amended environmental approval issued under subsection (2)(b) because of the cancellation, and before the reinstatement request is decided, ceases to have effect.

### **54ZJA Request to reinstate cancelled or suspended environmental approval**

- (1) This section applies if a proponent for a coordinated project is given notice under section 54ZI(1) that an environmental approval for the project is cancelled or suspended in relation to a specified provision.
- (2) The proponent may, by written notice (a *reinstatement request*), ask the Coordinator-General to reinstate the environmental approval to the extent it is cancelled or suspended.
- (3) A reinstatement request must—
  - (a) be made no later than 2 months after the day the notice under section 54ZI(1) is given; and

- (b) state the grounds on which the proponent seeks to have the environmental approval reinstated.

### **54ZJB Coordinator-General may request information about reinstatement request**

- (1) This section applies if the Coordinator-General considers further information is reasonably necessary to decide a reinstatement request.
- (2) The Coordinator-General may, by written notice, require the proponent to provide the further information within the period stated in the notice.
- (3) If the further information is not provided within the stated period, the reinstatement request lapses.

### **54ZJC Deciding reinstatement request**

- (1) The Coordinator-General must—
  - (a) decide whether to approve or refuse the reinstatement request; and
  - (b) give the proponent written notice of the decision, including the grounds for the decision.
- (2) In deciding the request, the Coordinator-General must consider the matters mentioned in section 54ZG(2), (3) and (4).
- (3) A decision under subsection (1)(a) must be made within 20 business days after the later of the following—
  - (a) the day the Coordinator-General receives the reinstatement request;
  - (b) the day the Coordinator-General receives any further information requested under section 54ZJB(2).
- (4) If a decision is not made within the period mentioned in subsection (3), the Coordinator-General is taken to have refused the reinstatement request the day after the period ends.

- (5) If the Coordinator-General approves the request, the cancellation or suspension ceases to have effect from the day notice of the decision is given under subsection (1)(b).

## **Division 6                      Offences and compliance**

### **54ZK Failure to comply with environmental approval or conditions**

- (1) This section applies to a person who is the holder of, or is acting under, an environmental approval.
- (2) The person must not, without reasonable excuse, contravene the environmental approval.

Maximum penalty—

- (a) for an individual—1,665 penalty units; or
- (b) for corporation—16,650 penalty units.
- (3) The person must not, without reasonable excuse, contravene a condition of the environmental approval.

Maximum penalty—

- (a) for an individual—1,665 penalty units; and
- (b) for corporation—16,650 penalty units.

### **54ZL Compliance under Environmental Protection Act**

- (1) The Environmental Protection Act, sections 437 to 440 and 493A apply to the undertaking of a coordinated project as if an environmental approval for the project were an environmental authority under that Act.
- (2) Also, the Environmental Protection Act, section 493 applies in relation to an offence against that Act, chapter 8, part 3 in relation to a coordinated project.
- (3) Subsection (4) applies if—

- (a) a proceeding is proposed to be started in the Planning and Environment Court under the Environmental Protection Act, section 505; and
  - (b) the relief or remedy proposed to be sought in the proceeding relates to an offence, or threatened or anticipated offence, against a provision of the Environmental Protection Act because of section 493A of that Act as applied under subsection (1); and
  - (c) the offence or threatened or anticipated offence relates to the coordinated project.
- (4) Despite the Environmental Protection Act, section 505, only the following persons may bring the proceeding—
- (a) the Coordinator-General;
  - (b) an entity nominated under section 54V as having jurisdiction for a condition of the environmental approval for the coordinated project;
  - (c) the local government for the local government area in which the coordinated project is, or is to be, undertaken;
  - (d) the proponent;
  - (e) another person whose interests are significantly adversely affected by the subject matter of the proceeding.

## **54ZM Declarations**

- (1) A person mentioned in section 54ZL(4) may start a proceeding in the Planning and Environment Court for a declaration about the lawfulness, under this part, of undertaking a coordinated project.
- (2) The *Planning and Environment Court Act 2016*, section 11 applies to a proceeding started under this section as if it were a proceeding relating to the Planning Act.

## **Division 7                      Miscellaneous**

### **54ZN Fees for pt 4A**

- (1) An application under this part must be accompanied by the fee prescribed by regulation for the application.
- (2) The Coordinator-General must refuse to receive the application unless the fee has been paid.
- (3) However, if a fee is prescribed for an application under section 54Z, the Coordinator-General may waive or reduce the fee.
- (4) In deciding to waive or reduce a fee under subsection (3), the Coordinator-General may have regard to the complexity of the proposed amendment and the extent of public consultation required in relation to the proposed change.
- (5) The proponent of a coordinated project must pay the Coordinator-General the fees prescribed by regulation at the times provided for under the regulation.
- (6) If a fee becomes payable under subsection (5), the Coordinator-General's obligations under this part for the coordinated project are suspended until the fee has been paid.
- (7) Subsection (6) applies despite any other provision of this part.

### **54ZO Recovering the cost of advice or services for assessment**

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

## **Part 5                      Prescribed development**

### **Division 1                      Declaration of prescribed development**

#### **55                      Investigation of developments of State significance**

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

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

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

#### **56                      Effect of investigation on local bodies**

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

- (a) the jurisdiction of the local body to deal with any application that has been made or is subsequently made

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to it and relates to that proposal shall be suspended until it is further notified by the Coordinator-General that its jurisdiction in respect of such application is restored in accordance with this part, the provision of any law to the contrary notwithstanding; and

- (b) where the local body would but for this section be required to decide within a limited time the matter of any application in respect of which its jurisdiction is suspended by paragraph (a), time shall be taken not to have commenced to run against the local body in relation to such application until its jurisdiction in respect of such application is duly restored.

## **57 Declaration of prescribed developments**

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

## **58 Notification of decision**

- (1) The Coordinator-General shall, in writing, notify that decision to all local bodies and other persons who in the Coordinator-General's opinion are materially concerned with a decision of the Governor in Council under section 57.
- (2) Where—

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- (a) the Governor in Council has refused to declare a proposed development, processing or handling to be a prescribed development; and
- (b) the jurisdiction of a local body in respect of any application relating to such proposed development, processing or handling is for the time being suspended pursuant to section 56;

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

## **Division 2                      Infrastructure coordination plans**

### **59            Preparation of plans**

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



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her own motion in addition to or in lieu of infrastructure requirements so submitted.

## **60 Approval of infrastructure coordination plan**

- (1) Every plan prepared under section 59 shall, after consideration by the Treasurer, be submitted to the Minister who, if the Minister approves thereof, shall submit the plan to the Governor in Council.
- (2) The Governor in Council may, on the recommendation of the Minister, approve of the plan and thereupon every local body and other person specified in the approved plan shall comply with the requirements of the plan (so far as those requirements are the concern of that local body or other person) in respect of the prescribed development to which the plan relates.
- (3) A local body or other person may be specified in an approved plan by name or by reason that it, he or she is one of a class or description of person specified in the plan.

## **61 Variation of approved plan**

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

## **62 Effect of approved plan**

Where pursuant to any Act an approval is given or a grant is made for the purpose of doing anything that then is or subsequently becomes related to a prescribed development and the person to whom or for whose benefit such approval is given or such grant is made then is or subsequently becomes a

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person specified in an approved plan relating to that prescribed development such approval or grant shall be deemed to contain and be subject to a condition that such person shall comply in all respects with the requirements of the approved plan (so far as those requirements are the concern of that person) and every instrument conferring title to or rights in land made to give effect to such approval or grant shall be deemed to contain and be subject to the like condition.

### **63 Local bodies may make and perform agreements etc.**

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

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## **64 Agreements to be furnished to Coordinator-General**

- (1) Every local body or other person that negotiates an agreement for the purpose of financing and providing infrastructure for a prescribed development in accordance with an approved plan shall furnish a copy of the proposed agreement to the Coordinator-General who shall examine the terms thereof in consultation with the appropriate officers of Treasury and with such local bodies or other persons as the Coordinator-General thinks fit.
- (2) If pursuant to subsection (1) 2 or more persons are required to furnish a copy of an agreement it shall be sufficient compliance with that subsection if 1 of such persons furnishes the copy as prescribed.
- (3) If in the opinion of the Coordinator-General a proposed agreement furnished to the Coordinator-General under subsection (1) is deficient in any respect the Coordinator-General shall refer the matter to the local body or other person that furnished the proposed agreement to him or her with a view to its alteration in a manner acceptable to the Coordinator-General.
- (4) When, in the opinion of the Coordinator-General, a proposed agreement furnished to the Coordinator-General under subsection (1) is satisfactory the Coordinator-General shall after consideration of the agreement by the Treasurer submit the matter of the agreement to the Minister with the Coordinator-General's recommendation that the proposed agreement should be approved.

## **65 Approval of agreements**

- (1) The Governor in Council may, on the recommendation of the Minister, approve of a proposed agreement referred to in section 63 and furnished to the Coordinator-General under section 64.
- (2) Upon the Governor in Council approving a proposed agreement the Coordinator-General shall cause notification of such approval to be given to the local body or other person

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that furnished a copy of the proposed agreement to the Coordinator-General.

- (3) Where the Governor in Council has approved an agreement with respect to any subject matter proposed to be entered into for the purposes of a prescribed development any agreement made with respect to the same subject matter, or so as to include the same subject matter, for the purposes of the same development shall be on the same terms and conditions, so far as they relate to that subject matter, as have been so approved.
- (4) If in any case subsection (3) is not complied with the agreement made shall be of no effect in law.

## **66 Variation of approved agreement**

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

## **Division 3 Applications relating to prescribed development**

### **67 Referral of applications**

- (1) Where a proposed development, processing or handling has been declared to be a prescribed development every application relating to the proposed development, processing or handling that—

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- (a) has been made to a local body at the time such declaration is made; or
  - (b) at any time after the making of such declaration is made to a local body;

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

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

## **68 Remission of applications**

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

declared to be a prescribed development but subject to the local body and all other persons concerned complying with the approved plan relating to that development.

## **69 Applications remaining with Coordinator-General**

- (1) If pursuant to a determination of the Governor in Council under section 68(1) an application is to remain with the Coordinator-General, the law under which the application was made to the local body shall be construed in relation to that application as if a reference therein to the local body were a reference to the Coordinator-General.
- (2) For the purpose of dealing with and determining an application that pursuant to the determination of the Governor in Council is to remain with the Coordinator-General the provisions of law and the constraints that would have affected the dealing with and determination of the application by the local body shall be deemed not to exist.
- (3) The Coordinator-General shall deal with an application that pursuant to the determination of the Governor in Council is to remain with the Coordinator-General in accordance with this Act and the Coordinator-General shall submit the matter of the application, the Coordinator-General's recommendations with respect thereto and any submissions received by the Coordinator-General with respect thereto to the Minister.

## **70 Advertisement calling for submissions**

- (1) In respect of an application relating to a prescribed development that is not remitted to a local body—
  - (a) the Coordinator-General shall by advertisement in some newspaper or newspapers circulating throughout the area or areas of the State for which the development is proposed give public notice—
    - (i) that the application is before the Coordinator-General; and

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

## 71 Determination of application

- (1) The Governor in Council, having due regard to the application, any submissions made with respect thereto and any other matters submitted to the Minister by the Coordinator-General, shall, by gazette notice, determine whether the Governor in Council—

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- (a) approves the application unconditionally; or
  - (b) approves the application subject to conditions; or
  - (c) refuses the application.
- (2) If the Governor in Council approves an application subject to conditions the Governor in Council shall at the same time determine and specify what those conditions are.

## **72 Effect of determination**

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



the determination, including taking proceedings before a court of competent jurisdiction; and

- (c) for the purpose of the local body exercising its authority under paragraph (b), the determination shall be deemed to be a decision of the local body lawfully made in relation to the application pursuant to the law under which the application was made to the local body.

### **73 Effect of reference on time limitations**

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

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

### **74 Prescribed development to await approval**

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

- (a) the application has been approved by the Governor in Council and the approval remains in force; and
- (b) if the approval of the application by the Governor in Council is subject to conditions, the work is performed

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or the undertaking is carried out in accordance in all respects with those conditions.

## **75 Withdrawal of applications**

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

## **Division 4 Information concerning development**

### **76 Coordinator-General may obtain information**

- (1) With a view to discharging the Coordinator-General's functions under this part the Coordinator-General may require any local body or other person to furnish to him or her—
  - (a) particulars of all works and undertakings proposed to be carried out by or on behalf of or under the authority or supervision of that body or person in connection with any proposed development, processing or handling; and
  - (b) such information as in the Coordinator-General's opinion would assist the Coordinator-General in the proper discharge of his or her functions.
- (2) Particulars and information furnished to the Coordinator-General pursuant to the Coordinator-General's requisition shall be verified in a manner directed by the Coordinator-General, including (should he or she so direct) by way of statutory declaration.
- (3) This section shall be construed to apply—
  - (a) except where the Minister directs to the contrary in a particular case, proof whereof shall lie upon him or her who alleges such direction to the contrary; and

- (b) subject to the provisions of any Act that expressly requires a person employed for the purposes of that Act to preserve and aid in preserving secrecy with respect to all matters that may come to the person's knowledge in the person's official capacity.

## **Part 5A                      Prescribed projects**

### **Division 1                      Preliminary**

#### **76A      Purposes of pt 5A**

The purposes of this part are as follows—

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

#### **76B      How the purposes are to be primarily achieved**

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

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- (a) the declaration of particular projects as prescribed projects;
- (b) the giving of notices to decide, progression notices and step in notices by the Coordinator-General;
- (c) the imposition of conditions for a prescribed decision that take account of, for example, the existence of a voluntary environmental agreement relating to the decision.

### **76C Application of other laws**

This part applies despite any other law.

### **76D Definitions for pt 5A**

In this part—

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

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

***decision maker***—

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

*Example of a decision maker for paragraph (a)—*

an assessment manager under the Planning Act

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

*Example of a decision maker for paragraph (b)—*

a referral agency

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

***notice to decide*** see section 76J(1).

***prescribed decision***—

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

*Examples of a prescribed decision*—

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

***prescribed process*** means a process, in relation to a prescribed project, required to be undertaken under a law of the State, including, for example, a process under the development assessment process under the Planning Act.

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

***progression notice*** see section 76I(1).

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

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

***relevant local government***, for a prescribed decision, means the local government for the local government area to which the prescribed decision relates.

***step in notice*** see section 76K(1).

***voluntary environmental agreement*** see section 76S(1).

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

### **76E**    **Declaration of prescribed project**

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

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

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

### **76EA Process applying to particular declarations**

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

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

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

*properly made submission* means a submission that—

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

#### **76F When declaration ends**

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

#### **76G Particular entities to cooperate with Coordinator-General**

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



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

## **76H Coordinator-General may seek further information**

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

## **Division 3                      Notices about prescribed projects**

### **Subdivision 1                  Progression notice**

#### **76I                      Progression notice**

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

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

## **Subdivision 2      Notice to decide**

### **76J      Notice to decide**

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

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

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## Subdivision 3 Step in notice

### 76K Step in notice

- (1) The Coordinator-General may, with the approval of the Minister, give to the decision maker and applicant for a prescribed decision or a prescribed process a written notice (a *step in notice*) advising the decision maker and applicant that the Coordinator-General is to make an assessment and a decision about the prescribed decision or process under this part.
- (2) The step in notice must—
  - (a) be accompanied by a copy of the declaration for the prescribed project to which the prescribed decision or process relates; and
  - (b) identify the prescribed decision or process; and
  - (c) state the Coordinator-General is the decision maker for the prescribed decision or process from the time the notice is given until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process.

### 76L When step in notice may be given

- (1) The Coordinator-General may give a step in notice for a prescribed decision or process only if—
  - (a) a progression notice or notice to decide has been given for the decision or process; or
  - (b) the Coordinator-General is satisfied that a step in notice is required to ensure timely decision-making for the decision or process.
- (2) If a progression notice or notice to decide has been given for a prescribed process or decision, the step in notice may be given—

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- (a) at any time after the Coordinator-General is satisfied the decision maker has not complied with the progression notice or notice to decide, but before the decision maker has undertaken the process or made the decision; or
  - (b) if the decision maker has complied with the progression notice or notice to decide—only if the applicant, by written notice given to the Coordinator-General within 10 business days after the applicant is notified of the decision, asks the Coordinator-General to give a step in notice for the decision.
- (3) If the step in notice is given for a prescribed decision that has been made, the notice must be given before the day that is 10 business days after the later of the following—
- (a) the day any appeal against the decision is started under the relevant law;
  - (b) the day the period, under the relevant law, for starting an appeal against the prescribed decision expires.
- (4) If the Coordinator-General receives a request under subsection (2)(b) for a prescribed process, the step in notice must be given to the decision maker within a reasonable period after the Coordinator-General receives the request.
- (5) In this section—  
*appeal* includes review.

## **76M Providing assistance or recommendations**

- (1) The decision maker for the prescribed decision or process must give the Coordinator-General all reasonable assistance or materials the Coordinator-General requires to act under this part, including—
- (a) all material about the prescribed decision or process the decision maker had before the step in notice was given; and

- (b) any material received about the prescribed decision or process by the decision maker after the step in notice was given.
- (2) Without limiting subsection (1), the Coordinator-General may, by written notice, require the decision maker to give the Coordinator-General within the reasonable period stated in the notice a written report containing—
  - (a) an assessment of matters, stated in the notice, relevant to the prescribed decision or process; or
  - (b) recommendations about the assessment mentioned in paragraph (a), including, for example, recommendations about proposed conditions relevant to the prescribed decision or process.
- (3) Subsection (4) applies if, other than for the giving of the step in notice, under the relevant law for the prescribed decision a local government could have imposed a condition, in relation to the decision, for trunk infrastructure or non-trunk infrastructure under the Planning Act.
- (4) The local government may, before the Coordinator-General makes a decision under section 76O about the prescribed decision, give the Coordinator-General a written recommendation to impose the condition.

## **76N Effects of step in notice**

- (1) If the Coordinator-General gives a step in notice for a prescribed decision or process—
  - (a) the Coordinator-General is the decision maker under the relevant law for the prescribed decision or process from the time the step in notice is given until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process; and
  - (b) for making the decision, the Coordinator-General has all the powers of the decision maker under the relevant law for the prescribed decision or process; and

- (c) for making the decision, the Coordinator-General must consider the following—
    - (i) the criteria, if any, for making the prescribed decision under the relevant law for the decision or process;
    - (ii) the purposes of this part under section 76A(b), (c)(i) and (ii), and (d);
    - (iii) the matters relevant to the undertaking of a prescribed project and prescribed under a regulation;
    - (iv) another matter relevant to the prescribed decision or process, or the prescribed project to which the decision or process relates, and prescribed under a regulation; and
  - (d) if the prescribed decision or process relates to an application for a development approval or a change application for a development approval (other than a minor change application)—
    - (i) the assessment manager or responsible entity for the application is taken, for the Planning Act, to be a referral agency for the application; and
    - (ii) the functions and powers of a referral agency for the application (including a referral agency mentioned in subparagraph (i)) is, for the Planning Act, limited to the power to only give advice; and
  - (e) if an appeal was made or a review was started in relation to the prescribed decision or process under the relevant law for the decision or process—the appeal or review is of no further effect; and
  - (f) despite paragraph (a), the Coordinator-General's decision about the prescribed decision or process is taken to be the exercise of a power or performance of a function of the Coordinator-General under this Act.
- (2) Despite subsection (1)(d)(i), the assessment manager or responsible entity for the application is taken to be a referral



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agency for the application only until the Coordinator-General makes a decision, under section 76O, about the prescribed decision or process.

## **76O Coordinator-General's decision**

- (1) After making an assessment about the prescribed decision or process, the Coordinator-General may—
  - (a) if the decision had not been made or the process had not been undertaken by the decision maker—
    - (i) make the decision or undertake the process; or
    - (ii) send back the decision or process, with or without conditions, to the decision maker under the relevant law for the decision or process; or
    - (iii) decide aspects of the decision and send back undecided aspects of the decision, with or without conditions, to the decision maker under the relevant law for the decision; or
  - (b) otherwise—
    - (i) confirm or amend the decision; or
    - (ii) cancel the decision and substitute a new decision.
- (2) In acting under subsection (1), the Coordinator-General may, in relation to the prescribed decision, impose conditions the Coordinator-General considers necessary or desirable having regard to—
  - (a) the nature of the prescribed project to which the decision relates; and
  - (b) whether the applicant for the decision has entered into a voluntary environmental agreement for the undertaking of the project; and
  - (c) the matters mentioned in section 76N(c) the Coordinator-General considered for the decision.

- (3) Without limiting subsection (2), the Coordinator-General may impose a condition requiring the applicant to carry out an activity or works that—
  - (a) prevent, control or mitigate detrimental environmental effects that may arise because of the undertaking of the prescribed project; or
  - (b) restore or enhance aspects of the environment that may be affected by the undertaking of the prescribed project to which the decision relates.
- (4) For subsection (3), an activity or works mentioned in the subsection may be required to be carried out on land on which the prescribed project is being undertaken or on other land in another part of the State.
- (4A) If the Coordinator-General receives a recommendation under section 76M(4) to impose a condition in relation to the prescribed decision, the Coordinator-General must impose the condition unless the Minister directs otherwise.
- (5) For a condition imposed under this section, the Coordinator-General may nominate an entity that is to have jurisdiction, under the relevant law for the prescribed decision, for the condition.
- (6) An entity may be nominated for 1 or more of the conditions.
- (7) If the Coordinator-General nominates an entity under subsection (5), the Coordinator-General must give each of the following written notice of the nomination—
  - (a) the entity;
  - (b) the decision maker and the applicant for the prescribed decision.
- (8) Subject to this part, the relevant law for the prescribed decision or process applies to the making of the Coordinator-General's decision under this section.

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## **76P Effects of decision**

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

## **76Q Notice of decision**

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

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- (a) the prescribed decision is a decision on an application for a development approval or a change application for a development approval; and
  - (b) the relevant local government is not the decision maker for the prescribed decision.
- (3) A notice under this section must include—
- (a) the reasons for the Coordinator-General’s decision; and
  - (b) the conditions, if any, imposed under section 76O(2) in relation to the decision.

## **76R Report about decision**

- (1) The Coordinator-General must prepare a report about each step in notice given for a prescribed decision or process.
- (2) The Coordinator-General must include the following in the report—
  - (a) a copy of the step in notice;
  - (b) details of each entity nominated, under section 76O(5), to have jurisdiction for a condition in relation to the prescribed decision or process;
  - (c) a copy of the notice, under section 76Q(1), of the Coordinator-General’s decision;
  - (d) other details about the Coordinator-General’s decision required by the Minister.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after notice is given under section 76Q(1) of the Coordinator-General’s decision.

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## Division 4                      Voluntary environmental agreements

### 76S    Entering into agreement

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

### 76T    Content and duration of agreement

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

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

## **76U Recording of particular agreements**

- (1) The Coordinator-General must, within 14 days after entering into a recorded voluntary environmental agreement in relation to land, give the registrar written notice of the agreement.
- (2) The notice must include particulars of the land to which the agreement relates.
- (3) The registrar must keep records that—
  - (a) show the land to which the agreement relates is the subject of a recorded voluntary environmental agreement; and
  - (b) state the places where particulars of the agreement may be inspected.

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

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

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

## Division 5                      Other matters

### 76V    Recovering cost of particular advice or services

- (1) This section applies if, in making an assessment under this part about a prescribed decision or process, the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to make the assessment.

- (2) The Coordinator-General may recover from the applicant for the prescribed decision or process as a debt the reasonable cost of obtaining the advice or services.

## **76W Application of Judicial Review Act 1991**

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

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

*Note—*

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

# **Part 6 Planned development**

## **Division 1 State development areas**

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

- (1) A regulation may declare any part of the State or of any area over which the State claims jurisdiction to be a State



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development area, if the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the State requires it, and may, in like manner—

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

## **78 Procedure in relation to State development areas**

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

## **79 Preparation of development scheme**

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

*Note—*

See also the *Sustainable Ports Development Act 2015*, section 32 for additional requirements for making or amending an approved development scheme.

## **79A Content of approved development scheme**

- (1) The approved development scheme for a State development area may regulate development in all or part of the State development area.
- (2) The approved development scheme must—
  - (a) if the scheme regulates development in part only of the State development area—state the area in which development is regulated; and
  - (b) identify any SDA assessable development or SDA self-assessable development; and
  - (c) if the scheme identifies development as SDA assessable development—state the matters or things an SDA application for the development will be assessed against; and
  - (d) if the scheme identifies development as SDA self-assessable development—include requirements the development must comply with.
- (3) Without limiting subsection (2), the approved development scheme may do any or all of the following—
  - (a) state that regulated development is consistent or inconsistent with the scheme;
  - (b) prescribe a process for any of the following—

- (i) assessing and deciding an SDA application;
  - (ii) making, assessing and deciding a request to change an SDA application;
  - (iii) assessing and deciding a change application for an SDA approval;
  - (iv) making, assessing and deciding a request to state a later currency period for an SDA approval under section 84H(2)(c);
  - (v) making, assessing and deciding a request (a *prior affected development request*) to the Coordinator-General to carry out a prior affected development for land;
- (c) state requirements for an application or request mentioned in paragraph (b).

## 80 **Approval, implementation, and variation of development scheme**

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

again be furnished to the Minister and submitted to the Governor in Council as prescribed by section 79.

- (3) If the Governor in Council approves a development scheme as so varied the provisions of subsection (1) shall apply in respect thereof and the scheme as so varied shall be the approved development scheme for the State development area to which it relates in lieu of the development scheme theretofore approved.

## **81 Abrogation of development scheme**

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

## **82 Acquisition of land in State development area**

- (1) The Coordinator-General may take or otherwise acquire land situated in a State development area for the purpose of—
  - (a) dealing satisfactorily with conditions of natural disaster or hazard, of act of war or civil strife, of bad layout or obsolete development; or
  - (b) providing for the establishment or relocation of population, industry or essential services, the establishment of an infrastructure corridor or for the replacement of open space in the course of the development of any other part of the State.
- (2) The power conferred by subsection (1) may be exercised notwithstanding that at the time of the taking or acquisition the development of the land taken or acquired is not provided for in an approved development scheme.

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- (3) A taking or acquisition of land situated in a State development area or a disposal of such land shall not be called in question in any proceeding—
- (a) on account of the taking or acquisition of the land from one person and its disposal to another (whether or not development of the land has taken place between the time of its taking or acquisition and the time of its disposal) where the taking or acquisition and the disposal are for the purpose of securing implementation of an approved development scheme for the State development area; or
  - (b) on account of the fact that the Coordinator-General will not control the development of the land but will secure such development by way of contract with other persons.
- (4) The power to take or acquire land in a State development area for a purpose (the *primary purpose*) includes power to take at any time land in the area either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.
- (5) As well as land granted in fee simple, the Coordinator-General may take or acquire land that is held from the State for an estate or interest less than fee simple for any of the purposes stated in subsection (1).
- (6) The following provisions apply with the stated changes to the taking or acquisition of land in a State development area—
- (a) section 125(4) applies as if the reference in the subsection to subsection (1) were a reference to section 82(1);
  - (b) section 125(7) and (9) apply as if the reference in the subsections to subsection (6) were a reference to section 82(5);
  - (c) section 125(8) applies as if the reference in the subsection to the land were a reference to land taken under section 82(5);

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- (d) section 125(10) applies as if the reference in the subsection to subsections (4) to (9) were a reference to a taking or acquisition of land under section 82;
  - (e) section 125(11) applies as if the reference in the subsection to this section were a reference to section 82;
  - (f) section 125A applies as if—
    - (i) a reference in the section to section 125 were a reference to section 82; and
    - (ii) the reference in the section to section 125(1) were a reference to section 82(1);
  - (g) section 127 applies as if—
    - (i) the reference in the section to section 125(6) were a reference to section 82(5); and
    - (ii) the reference in the section to section 125(9) were a reference to section 125(9) as it has effect under paragraph (b);
  - (h) section 129 applies as if a reference in the section to section 125 were a reference to section 82.
- (7) Subsection (6) applies subject to section 83.
- (8) In this section—

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

### **83 Disposal of land in State development area**

- (1) If land is within a State development area and there is an approved development scheme in effect for the area—
- (a) any grant of, demise of, or other dealing with that land made by the Governor in Council shall be subject to

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

be made of the land or of the right to sell, lease or dispose of it.

#### **84 Development under approved development scheme**

- (1) This section applies to the extent an approved development scheme for a State development area identifies regulated development in the area.
- (2) If another Act or law would, apart from this section, regulate the regulated development, the other Act or law does not apply to the regulated development to the extent the other Act or law regulates that development.

#### **84A Carrying out SDA assessable development without SDA approval**

A person must not carry out SDA assessable development in a State development area without an SDA approval for the development.

Maximum penalty—1,665 penalty units.

#### **84B SDA self-assessable development must comply with approved development scheme**

If a person carries out SDA self-assessable development in a State development area, the person must comply with the requirements under the approved development scheme for the area about carrying out SDA self-assessable development.

Maximum penalty—1,665 penalty units.

#### **84C Compliance with SDA approval**

A person must not contravene an SDA approval.

Maximum penalty—1,665 penalty units.



#### **84D How to make SDA application**

- (1) Each SDA application must—
  - (a) be made to the Coordinator-General in the approved form; and
  - (b) address the requirements for the application stated in the approved development scheme for the State development area to which the application relates; and
  - (c) be accompanied by the application fee prescribed by regulation.
- (2) The Coordinator-General must not accept an application that does not comply with subsection (1).

#### **84E Deciding SDA application**

- (1) The Coordinator-General must—
  - (a) decide to—
    - (i) approve all or part of the SDA application, with or without conditions; or
    - (ii) refuse the SDA application; and
  - (b) give the applicant written notice of the decision (the *decision notice*).
- (2) If the SDA application is refused, the decision notice must state the reasons for the decision.
- (3) A condition imposed under subsection (1)(a)(i) must—
  - (a) be relevant to, but not an unreasonable imposition on, the development or use of the land as a consequence of the development; or
  - (b) be reasonably required in relation to the development or use of the land as a consequence of the development.

### **84F Application to change SDA approval**

- (1) A person may apply to the Coordinator-General to change an SDA approval (a *change application*).
- (2) Sections 84D and 84E apply to the change application as if a reference in the provisions to an SDA application were a reference to the change application.

### **84G Duration of SDA approval**

- (1) An SDA approval has effect on and after the date stated in the decision notice for the relevant SDA application.
- (2) The development the subject of the SDA approval may, subject to any conditions imposed on the approval, start when the approval has effect.
- (3) However, the SDA approval ceases to have effect if it lapses under section 84H.

### **84H When SDA approval lapses**

- (1) An SDA approval lapses at the end of its currency period unless—
  - (a) for development that is reconfiguring a lot—the plan for the reconfiguration of the lot is given to the Coordinator-General for approval before the currency period ends; or
  - (b) for all other development—the development substantially starts before the currency period ends.
- (2) The *currency period*, for an SDA approval, is—
  - (a) if paragraphs (b) and (c) do not apply—4 years after the day the approval has effect under section 84G; or
  - (b) if the approval states a different period—the period stated in the approval; or
  - (c) if, within the period mentioned in paragraph (a) or (b), the Coordinator-General gives the applicant for the SDA

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approval written notice stating a later period—the period stated in the notice.

(3) In this section—

*applicant*, for an SDA approval, means the person in whom the benefit of the approval vests from time to time.

## **85 Carrying out particular development, use or works not an offence**

(1) Subsection (2) applies if—

- (a) immediately before an approved development scheme applies to land, a use or works is lawfully being carried out on the land by a person; and
- (b) after the approved development scheme applies to the land, the person continues the use or works.

(2) Sections 84A and 84B do not apply to the use or works by the person or the person's successors in title to the land.

(3) Subsection (4) applies if—

- (a) immediately before an approved development scheme applies to land, there was a prior affected development for the land; and
- (b) the owner of the land has, under the approved development scheme, made a prior affected development request to the Coordinator-General to approve the development of the land for the prior affected development; and
- (c) the Coordinator-General has approved the prior affected development request.

(4) Sections 84A and 84B do not apply to the development of the land for the prior affected development by the owner or the owner's successors in title to the land.

(5) Subsection (6) applies to premises the subject of a designation under the Planning Act.

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- (6) Sections 84A and 84B do not apply to development carried out on the premises under the designation.

## **Division 2            Compensation**

### **Subdivision 1        Preliminary**

#### **86        Definition for div 2**

In this division—

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

### **Subdivision 2        Entitlement to compensation**

#### **87        Compensation**

An owner of an interest in land is entitled to be paid reasonable compensation by the Coordinator-General if—

- (a) immediately before an approved development scheme started applying to the land, there was a prior affected development for the land; and
- (b) after the approved development scheme started applying to the land, the development of the land for the prior affected development would be an offence under section 84A or 84B; and
- (c) the application of the approved development scheme to the land reduces the value of the interest; and
- (d) the owner of the land has, under the approved development scheme, made a prior affected development request to the Coordinator-General to approve the development of the land for the prior affected development; and

- (e) the Coordinator-General has refused the prior affected development request.

## **88 Limitations on compensation under s 87**

Despite section 87, compensation is not payable—

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

## **Subdivision 3 Claims for, and payment of, compensation**

### **89 Time limit for claiming compensation**

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

### **90 Deciding claims for compensation**

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

## **91 Notification of decision**

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

## **92 Calculating reasonable compensation involving changes**

- (1) For section 87, reasonable compensation is the difference between the market values, appropriately adjusted having regard to the following matters, to the extent they are relevant—
  - (a) any limitations or conditions that may reasonably have applied to the development of the land immediately before the approved development scheme applied to the land;
  - (b) any benefit accruing to the land from the approved development scheme coming into effect, including but not limited to the likelihood of improved amenity in the locality of the land;
  - (c) if the owner owns land adjacent to the interest in land, any benefit accruing to the adjacent land because of—
    - (i) the coming into effect of the approved development scheme; or
    - (ii) the construction of, or improvement to, infrastructure on the adjacent land under the approved development scheme (other than infrastructure funded by the owner) before the claim for compensation was made;

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- (d) the effect of any other changes to the approved development scheme made since the approved development scheme applied to the land;
  - (e) if any SDA approval for the land is subject to conditions, the effect of the conditions on the development.
- (2) Despite subsection (1), if land for which compensation is claimed has, since the day the approved development scheme came into effect, become or ceased to be separate from other land, the amount of reasonable compensation must not be increased because the land has become, or ceased to be, separate from other land.
- (3) In this section—

*difference between the market values* means the difference between the market value of the interest in land immediately before the approved development scheme came into effect and the market value of the interest immediately after the approved development scheme came into effect.

### **93 When compensation is payable**

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

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

### **94 Payment of compensation to be recorded on title**

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

## **Subdivision 4 Appeals**

### **95 Appeals against decisions on compensation claims**

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

### **96 How appeals are started**

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

### **97 Hearing procedures**

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

### **98 Appeal decision**

- (1) In deciding an appeal the court may—
  - (a) confirm the decision appealed against; or
  - (b) change the decision appealed against; or



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

## **Division 3                      Undertaking of works by local bodies or approved persons**

### **99            Recommendation of certain works**

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

### **100          Approval of certain works**

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

### **101          Time limited for works**

By order directed to and served on a local body or approved person that is required to undertake works by a regulation

made under section 100 the Minister may specify a time within which the works or any part thereof shall be commenced or completed and may, in like manner, extend the time so specified.

## **102 Direction to be complied with**

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

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

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

## **103 Borrowing of money for works**

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

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

- (1) If, on the report of the Coordinator-General, the Governor in Council is satisfied that a local body or approved person is in default in complying with a regulation made under section 100 and directed to it the Governor in Council may

notify that local body or approved person that upon the expiration of the period therein specified (being not less than 21 days from the date of the notification) the Governor in Council will authorise the Coordinator-General to commence and complete or, as the case may require, complete the works or part thereof in respect of which the local body or approved person is in default as agent for that local body or approved person.

- (2) A local body or approved person notified pursuant to subsection (1) may make to the Minister written representations against the Governor in Council effecting the Governor in Council's notified intention.
- (3) The Minister shall submit such representations to the Governor in Council who, if the Governor in Council thinks the case warrants it, may direct that the issue be heard by such person or persons as the Governor in Council appoints.
- (4) The hearing shall be deemed to be an inquiry and shall be conducted as a commission of inquiry under the *Commissions of Inquiry Act 1950* and the person or persons conducting the inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a commission under that Act and in addition, where there is 1 such person, that person or, where there are more than 1 such person, the person appointed as chairperson of such inquiry may exercise and shall have the powers, authorities, protection and jurisdiction of a chairperson of such a commission except such as are by that Act confined to a chairperson who is a judge of the Supreme Court and the provisions of that Act shall apply accordingly.
- (5) The finding on the hearing shall be made to the Minister for reference to the Governor in Council who shall give thereto such weight as the Governor in Council thinks fit in determining the issue in question.
- (6) If, upon the expiration of the period specified in the Governor in Council's notification of intention given to the local body or approved person or upon the receipt by the Governor in Council of the finding on the hearing conducted at the Governor in Council's direction (whichever event is the later

to occur), the Governor in Council decides to effect the intention so notified a regulation may authorise the Coordinator-General to commence and complete or, as the case may be, complete the works or part thereof in respect of which the local body or approved person is in default as agent for that local body or approved person.

### **105 Borrowing to facilitate remedy of default**

For the purpose of remedying a local body's or approved person's default pursuant to the authority conferred by a regulation made under section 104(6) the Coordinator-General may exercise all or any of the powers conferred on the Coordinator-General by the *Statutory Bodies Financial Arrangements Act 1982* with respect to borrowing money.

### **106 Liability for costs of work to remedy default**

- (1) All costs, charges and expenses incurred by the Coordinator-General in or in connection with remedying a local body's or approved person's default pursuant to the authority conferred by a regulation made under section 104(6), including all sums borrowed for that purpose together with interest and charges in respect thereof, shall be paid by the local body or approved person in default and may be recovered from the local body or approved person as prescribed.
- (2) All sums payable by a local body or approved person pursuant to subsection (1) are payable to the Treasurer and shall be paid to the Treasurer at such times and in such instalments as the Treasurer requires by order in writing given to the local body or approved person.
- (3) In addition to any other method prescribed for the recovery of such moneys, there may be filed in the registry of the Supreme Court—
  - (a) a certificate by the Treasurer that the amount of costs, charges or expenses claimed in the Treasurer's order

given under subsection (2) as payable by the local body or approved person specified in the certificate is duly payable by the local body or approved person and that the local body or approved person has failed to comply with the order in the amount specified in the certificate; and

- (b) a writing purporting to be a copy of an order of the Treasurer given under subsection (2);

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

## **107 Power to order postponement of works**

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

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

### **108      Recommendation of particular works**

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

### **109      Direction about particular works**

Where a recommendation is submitted to the Governor in Council—

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

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

### **110      Undertaking particular works**

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

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1994, be taken to be community purposes within the meaning of that Act.

## **111 Delegation of authority of Coordinator-General**

- (1) The provisions of section 11 shall be construed subject to this section.
- (2) A power or function conferred or imposed on the Coordinator-General by a regulation under section 109—
  - (a) shall not be delegated save with the approval of the Governor in Council first had and obtained in lieu of the approval of the Minister; and
  - (b) may be delegated only to a local body or any of the following under the *Public Sector Act 2022*—
    - (i) a chief executive;
    - (ii) a senior executive;
    - (iii) a term appointee whose remuneration is equivalent to, or more than, that of a senior executive.
- (3) An entity to whom such a power or function is delegated shall, in its performance thereof, be subject to and comply with the directions given in relation thereto by the Coordinator-General.
- (4) The Coordinator-General may, at any time, and shall, at the direction of the Governor in Council, revoke a delegation of such a power or function but such revocation shall not affect anything done or anything arising out of anything done under the authority of the delegation prior to its revocation.
- (5) This section does not limit the persons who may, under section 110, undertake works the subject of a regulation under section 109 on behalf of the Coordinator-General.

## **112 Borrowing of money for works**

For the purpose of enabling a local body to undertake works under the authority of a delegation duly given by the

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

## **Division 6                      Special powers incidental to planned development**

### **125      Power of Coordinator-General to take land**

- (1) In addition to the power to take or otherwise acquire land under section 82, the Coordinator-General may take land for any of the following purposes—
  - (a) works that the Coordinator-General is authorised by the Governor in Council to undertake;
  - (b) works included in a program of works or a development scheme approved under this Act by the Governor in Council that the Coordinator-General is not authorised by the Governor in Council to undertake;
  - (c) works undertaken or to be undertaken by a local body or by a department of the Government;
  - (d) a purpose specified in the schedule to the *Acquisition of Land Act 1967* and approved by the Governor in Council as a purpose for which the Coordinator-General may take land;
  - (e) a purpose of rural or urban development recommended by the Coordinator-General and approved by the Governor in Council;
  - (f) a private infrastructure facility.
- (2) However, a taking of land for a purpose mentioned in subsection (1)(f) must be in compliance with section 153AH.



- (3) Subsection (1)(f) applies even if the taking of land by the Coordinator-General is for conferring rights or interests in the land taken on a person other than the State or a local body.
- (4) The process stated in the *Acquisition of Land Act 1967* for the taking of land and the payment of compensation for the land taken applies to all land taken under subsection (1) as if the taking were a taking under that Act by a constructing authority.
- (5) The power to take land under this section for a purpose (the **primary purpose**) includes power to take at any time land either for the primary purpose or for any purpose incidental to the carrying out of the primary purpose.
- (6) As well as land granted in fee simple, the Coordinator-General may take land that is held from the Crown for an estate or interest less than fee simple for any of the purposes stated in subsection (1).
- (7) Land referred to in subsection (6) shall, if vested in the Coordinator-General, an instrumentality representing the Crown, a local body, or other person by the proclamation whereby it is taken, be vested in him, her or it for an estate in fee simple.
- (8) The Governor in Council is hereby authorised to grant in fee simple and so vest the land subject to such reservations and conditions as are authorised or required by the *Land Act 1994*.
- (9) The process stated in the *Acquisition of Land Act 1967* for the taking of land and the payment of compensation for the land taken applies to all land taken under subsection (6) as if the taking were a taking of land under that Act by a constructing authority.
- (10) The *Acquisition of Land Act 1967* shall be read with and subject to all such modifications and adaptations as are necessary to give operation and effect to subsections (4) to (9) including by reading a reference therein to the registrar of titles as a reference to the person or authority charged with registering instruments evidencing the title to the estate or interest in the land in question held from the Crown.

- (11) To remove any doubt, it is declared that the taking of land under this section is not a taking of land under the *Acquisition of Land Act 1967*, even though the process to be used for the taking of the land and for the payment of compensation for the land taken is the process stated in that Act.

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

- (1) The Coordinator-General's power under section 125 to take land for a purpose mentioned in section 125(1), includes the power to create, by registration under any of the following that apply to the land, a public utility easement over the land—
- (a) the *Land Act 1994*, chapter 6, part 4, division 8;
  - (b) the *Land Title Act 1994*, part 6, division 4.
- (2) For the *Land Act 1994*, section 369 and the *Land Title Act 1994*, section 89, the person for whom the land is to be taken under section 125 is taken to be a public utility provider.
- (3) If the document creating the easement states the following have been complied with to the extent they are relevant for the taking of the easement, the easement may be registered under the Acts without the document having been signed by the owner of the land to be burdened by the easement—
- (a) section 153AH(1);
  - (b) any relevant guidelines made under section 174.
- (4) Subsection (3) applies despite the *Land Act 1994*, section 363(1) or the *Land Title Act 1994*, section 83(1).

### **127 Relationship with native title legislation**

For the taking of land under section 125(6) and the payment of compensation for the land taken—

- (a) the process mentioned in section 125(9) must be carried out in a way that is consistent with the *Native Title*

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*(Queensland) Act 1993* and the *Native Title Act 1993* (Cwlth); and

- (b) if the *Native Title (Queensland) Act 1993* or the *Native Title Act 1993* (Cwlth) states a process in relation to the taking or payment that is in addition to the process stated in the *Acquisition of Land Act 1967*, the additional process also applies to the taking or payment; and
- (c) the Land Court is the independent body for the *Native Title Act 1993* (Cwlth), section 24MD(6B).

## 128 Vesting of land taken

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

## 129 Power to use, lease or dispose of land

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

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

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- (c) sign an agreement with any person in relation to works or development for land taken, or proposed to be taken, under section 125;
- (d) sell land taken, or agree to sell land to be taken, under section 125.

### **130 Payment of costs of taking land and compensation**

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

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

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

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**132 Disposal of land not required for purpose of acquisition**

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

**133 Proof of requirement of land**

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

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

(1) When the Coordinator-General is satisfied that works undertaken by the Coordinator-General as authorised works have been completed in accordance with the plans and specifications therefor, or have attained such a stage as to be available for use for the purpose for which they were undertaken the Coordinator-General may, subject to this section, negotiate and enter into agreement—

- (a) with any person or instrumentality representing the Crown; or
- (b) with any local body; or
- (c) with any entity established under an Act;

that is authorised or required to undertake works of a similar nature for the acquisition, management, operation and control of the authorised works by such person, instrumentality, or local body (the *transferee*).

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- (2) The Minister shall submit to the Governor in Council particulars of an agreement negotiated between the Coordinator-General and the transferee and no such agreement shall be entered into or, being entered into, have any effect until its terms are approved by regulation.
- (3) The transferee is hereby authorised to acquire, manage, operate and control the authorised works pursuant to an agreement relating thereto approved by the Governor in Council and the same shall be deemed to be a function of the transferee under the Act under which he, she or it, as the case may be, is appointed or constituted and, where the transferee is a local government, shall be deemed to be a function of local government.
- (4) From time to time the Coordinator-General may certify what land vested in the Crown is included in or required for authorised works to which an agreement made pursuant to this section relates and for the purpose of securing such land to the transferee the Governor in Council is hereby empowered to grant in fee simple or demise on an appropriate leasehold tenure or set apart and reserve the land to which the certificate relates.
- (5) Every such grant or demise shall be made to the transferee without competition but otherwise shall be subject to the *Land Act 1994*.

### **135 Undertaking private works**

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

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## **136 Powers in respect of land for purposes of works**

- (1) In connection with the undertaking by the Coordinator-General of authorised works or in connection with any other works undertaken or to be undertaken pursuant to authority conferred under this Act, the Coordinator-General or his or her delegate, an officer or employee of the Coordinator-General, or any person authorised in writing by the Coordinator-General or his or her delegate may—
- (a) enter upon any land; or
  - (b) on any land, make any inspection, investigation, valuation or survey, or take levels; or
  - (c) dig and bore into any land to ascertain the nature of the soil or substrata thereof, and set out thereon the lines of any works; or
  - (d) affix to or set up on any land trigonometrical stations, survey pegs, marks or poles and, from time to time, inspect, alter, remove, reinstate and repair the same; or
  - (e) occupy any land; or
  - (f) on and from any land occupied by or on behalf of the Coordinator-General—
    - (i) construct or place plant, machinery, equipment or goods; or
    - (ii) erect workshops, sheds and other buildings, including buildings for providing housing and other amenities for officers or employees and their dependants; or
    - (iii) make roads, cuttings and excavations; or
    - (iv) manufacture and work materials of all kinds; or
    - (v) deposit clay, earth, gravel, sand, stone, timber, wood, and other material; or
    - (vi) take clay, earth, gravel, sand, stone, timber, wood, and other material; or

- (vii) demolish, destroy, and remove plant, machinery, equipment, goods, workshops, sheds, buildings or roads.
- (2) The power to enter land conferred by subsection (1) includes power—
  - (a) to enter and re-enter the land from time to time; and
  - (b) to remain upon the land for such time as is necessary to achieve the purpose of the entry; and
  - (c) to take such assistants, vehicles, materials, equipment and things as are necessary to achieve the purpose of the entry.
- (3) Where practicable, not less than 7 days notice in writing shall be given to the occupier or, if there is no occupier, the owner of land of the intention to enter thereon.
- (4) Where entry to land is sought to be or has been made pursuant to authority in writing of the Coordinator-General or his or her delegate, the authority shall be produced and shown to the owner or occupier of the land upon his or her demand.

### **137 Offences of interference and wilful obstruction**

A person shall not—

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

### **138 Powers in respect of water for purposes of works**

- (1) The Coordinator-General or his or her delegate expressly authorised in that behalf may—



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- (a) raise or lower the level of the water in any body of water; or
- (b) take, impound, divert or use, either permanently or temporarily the water in any body of water;
- to the extent to which the Coordinator-General or, as the case may be, his or her delegate thinks it necessary for the purpose of or in connection with undertaking—
- (c) authorised works for or connected with the supply of water; or
- (d) works authorised under this Act to be undertaken for or connected with the supply of water.
- (2) If a moratorium notice has been published under the *Water Act 2000*, the power of the Coordinator-General under subsection (1) does not apply to—
- (a) water to which the notice applies; or
- (b) if the notice is amended—water to which the amended notice applies.
- (3) If a water plan has been approved, or is taken to have been approved, under the *Water Act 2000*, the power of the Coordinator-General under subsection (1) does not apply to—
- (a) water to be supplied to water entitlement holders, or persons authorised to take water under the *Water Act 2000*, section 20, in the plan area at the time the power is exercised; and
- (b) water required to meet environmental flow objectives and water allocation security objectives under the plan.
- (4) However, if the Coordinator-General acts under subsection (1)—
- (a) the Coordinator-General must consider the economic and social benefits of the proposed works and any industry to be supplied with the water, and any 1 or more of the following—
- (i) the need for sustainable management and efficient use of water under the *Water Act 2000*, section 10;

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- (ii) the principles of ecologically sustainable development under the *Water Act 2000*, section 11;
  - (iii) relevant water planning information;
  - (iv) the needs of water entitlement holders under the *Water Act 2000*;
  - (v) the volume of water to be supplied under subsection (1); and
- (b) the Coordinator-General must—
- (i) prepare a statement giving reasons why the power is exercised; and
  - (ii) publish a copy of the statement in the gazette; and
- (c) the Minister must table the statement in the Legislative Assembly within 3 sitting days after the notice is published in the gazette.

### **139 Compensation for exercise of power under ss 136 and 138**

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

- (a) damage of a temporary nature as well as of a permanent nature; or
- (b) the taking of clay, earth, gravel, sand, timber, wood, and other material;

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

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

of the application for compensation be deferred until the works are completed or for a time limited in the order and thereupon no further proceeding shall be had on the application for compensation (save an application hereinafter in this subsection referred to) until the completion of the works or, as the case may be, the expiration of the time so limited unless a member of the Land Court on the application of the applicant for compensation otherwise orders.

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

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

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## **Division 7            Infrastructure facilities**

### **Subdivision 1        Investigating potential                              infrastructure facility**

#### **141    Purpose of sdiv 1**

The purpose of this subdivision is—

- (a) to allow persons authorised by the Coordinator-General to enter land to investigate the land's potential and suitability for the development of an infrastructure facility for which a proponent is proposing to apply for approval under section 153AC; and
- (b) to safeguard the interests of the owner of the land.

#### **142    Definitions for sdiv 1**

In this subdivision—

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

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

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

*investigator's authority* means an investigator's authority granted under this subdivision.

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

### **143 How to apply for investigator's authority**

- (1) This section applies if the person proposing the infrastructure facility can not successfully negotiate entry to the land with the owner.
- (2) The person may apply to the Coordinator-General for an investigator's authority for the land.
- (3) The applicant must give the Coordinator-General the following in support of the application—
  - (a) details of the proposed facility, including the land on which the facility is proposed to be located;
  - (b) the likely demand for the services associated with the proposed facility;
  - (c) advice as to how the proposed facility would satisfy an identified need;
  - (d) details of the applicant's financial and technical capacity to implement the proposed facility;
  - (e) details of the steps the applicant has taken, or tried to take, to satisfy its obligations under subsection (1);
  - (f) any other information the Coordinator-General considers is necessary to assess the application.
- (4) The application must be in writing and state the following information—
  - (a) the land intended to be entered under the authority;
  - (b) the purpose for which the authority is sought;
  - (c) details of the nature of the activities proposed to be conducted on the land;
  - (d) the period for which the authority is sought.

- (5) The Coordinator-General must advise the owner—
  - (a) that an application for an authority has been made for the land; and
  - (b) the powers a person granted an authority may exercise under this subdivision.

#### **144 Additional information about application**

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

#### **145 Granting authority**

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

## **146 Investigator's authority**

- (1) The investigator's authority must be in writing stating the following—
    - (a) the land to which it applies;
    - (b) the purpose for which it is granted;
    - (c) when it expires;
    - (d) any conditions imposed on the authority.
  - (2) The authority authorises the investigator and associated persons—
    - (a) to enter and re-enter land the subject of the authority for investigating the land's potential and suitability for the construction of the infrastructure facility; and
    - (b) to the extent reasonably necessary or convenient for the purpose—
      - (i) to do anything on the land; or
      - (ii) to bring anything onto the land; or
      - (iii) to temporarily leave machinery, equipment or other items on the land.
- Examples of things authorised by the authority—*
- 1 to conduct surveys, investigate and take samples
  - 2 to clear vegetation, or otherwise disturb the land, to the extent reasonably necessary
  - 3 to construct temporary access tracks using the land or using materials brought onto the land
- (3) It is declared that—
    - (a) the grant of the authority is not an indication of a commitment or approval by the State, the Coordinator-General or any other person to any proposal, and in particular, does not commit the State to acquiring any land for construction of the infrastructure facility; and
    - (b) a person is not an employee or agent of the State merely because the person is an investigator.



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- (4) The investigator or associated person must comply with each condition of the authority, unless the investigator or associated person has a reasonable excuse.

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

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

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

- (b) at least 7 days have passed since the notice was given.

**148 Investigator to issue associated person with identification**

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

Maximum penalty—10 penalty units.

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

Maximum penalty—10 penalty units.

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

- (5) If the request is made of an investigator, the investigator must immediately state the investigator's name and show the person a copy of the authority.

Maximum penalty—10 penalty units.

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

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

#### **149 Pretending to be an investigator etc.**

A person must not pretend—

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

Maximum penalty—80 penalty units.

#### **150 Investigator to take care in acting under authority**

The investigator and all associated persons of the investigator—

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

#### **151 Rectification of damage by investigator**

- (1) The owner of the land may, by written notice given to the investigator, require the investigator, within a reasonable time after the investigator has finished investigating the land under the authority, to rectify loss or damage suffered by the owner arising out of—

- (a) the entry onto the land; or

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

## **152 Compensation payable by investigator**

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

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### 153 Release of bond or security deposit

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

*notice of damage* means a notice under section 151.

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

## **Subdivision 2 Requirements for Coordinator-General to take land for private infrastructure facility**

### **153AA Application for approval of project as a private infrastructure facility and for Coordinator-General to take land**

- (1) The proponent of a project that is an infrastructure facility may apply to the Coordinator-General for approval of the project as a private infrastructure facility and to take land required for the private infrastructure facility (a *private infrastructure facility application*) if—
  - (a) each of the following apply—
    - (i) the project has been declared a coordinated project for which an EIS is required under section 26(1)(a);
    - (ii) the Coordinator-General has publicly notified the Coordinator-General's report for the project;
    - (iii) the report has not lapsed;
    - (iv) the area of land identified as required for the infrastructure facility is consistent with the land assessed in the EIS for the project; or
  - (b) both of the following apply—
    - (i) the Coordinator-General is satisfied that adequate environmental assessment has been carried out for the project in accordance with an environmental assessment process under an Act, other than this Act, or under a Commonwealth Act;
    - (ii) the area of land identified as required for the infrastructure facility is consistent with the land assessed in the document, similar to an EIS, to which the process relates.
- (2) A private infrastructure facility application must—
  - (a) address the matters mentioned in section 153AC(2); and

- (b) include enough information about the project to allow the Governor in Council to assess the matters mentioned in that section; and
  - (c) identify the land (the *subject land*) that the proponent is applying to the Coordinator-General to acquire; and
  - (ca) include evidence that the proponent has given written notice of the application to the registered owner of the subject land; and
  - (d) be accompanied by the fee prescribed under a regulation.
- (3) A private infrastructure facility application is a properly made application only if the Coordinator-General is satisfied it complies with subsection (2).
- (4) Sections 153AB to 153AD apply to a private infrastructure facility application only if it is a properly made application.

### **153AB Coordinator-General to seek submissions and undertake consultation**

For a private infrastructure facility application, the Coordinator-General must, in the way the Coordinator-General considers appropriate—

- (a) seek submissions on the economic or social significance and benefits of the proposed infrastructure facility from the persons affected by it; and
- (b) undertake consultation with the registered owner of the subject land about the negotiations to acquire the land by agreement undertaken for the application by the proponent with the registered owner.

### **153AC Criteria for approval of project**

- (1) This section applies if a private infrastructure facility application is made for a project.

- (2) The Governor in Council may, by gazette notice, approve the project as a private infrastructure facility if the Governor in Council is satisfied of each the following—
  - (a) the project has economic or social significance and economic or social benefits to Australia, the State or the region in which the project is to be undertaken;
  - (b) the proponent has the financial and technical capability to complete the project in a timely way;
  - (c) the project satisfies an identified need or demand for the services provided by the project;
  - (d) the project will be completed in a timely way to satisfy the identified need or demand;
  - (e) the land on which the facility is proposed to be located has been sufficiently identified;
  - (f) the project is not inconsistent with State policies;
  - (g) for the subject land—
    - (i) the proponent has negotiated for at least 6 months with each registered owner of the land and has taken reasonable steps to purchase the land by agreement; and
    - (ii) if native title exists in relation to the land, the proponent has taken reasonable steps to enter into an indigenous land use agreement for the land.
- (3) In deciding whether the project has economic or social significance and economic or social benefits under subsection (2)(a), the potential for the project to contribute to community wellbeing, economic growth or employment levels must be taken into account.
- (4) In assessing the potential under subsection (3), the contribution the project may make to agricultural, industrial, resource or technological development in Australia, the State or a region is a relevant consideration.



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### **153AD Roles of Governor in Council and Coordinator-General for decision about approval of project**

- (1) The Coordinator-General must, on completing consultation under section 153AB—
  - (a) assess the private infrastructure facility application; and
  - (b) make a recommendation to the Governor in Council as to whether the matters mentioned in section 153AC(2) are satisfied for the project.
- (2) The Governor in Council may decide to approve or not to approve the project or approve it subject to conditions.
- (3) If the Governor in Council decides to approve the project as a private infrastructure facility—
  - (a) the Coordinator-General must prepare a statement giving reasons why the project was approved and publish a copy of the statement in the gazette; and
  - (b) the Minister must table the statement in the legislative assembly within 3 sitting days after the gazette notice notifying the approval is published.
- (4) If the Governor in Council decides not to approve a project as a private infrastructure facility, the Coordinator-General must, within 28 days after the decision, give the proponent written notice of the decision and the reasons for it.

### **153AE Final negotiations with owner of land**

- (1) After approval, under section 153AC(2), of the project as a private infrastructure facility, the proponent of the project must—
  - (a) negotiate 1 final time with the registered owner of the subject land and make the registered owner a final unconditional offer to purchase the land; and
  - (b) at the start of the negotiations, give the registered owner the required information; and
  - (c) give the Coordinator-General evidence of compliance with paragraphs (a) and (b).

[s 153AF]

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- (2) The final unconditional offer under subsection (1)(a) must—
  - (a) be in writing; and
  - (b) offer to purchase the subject land subject only to any statutory requirements that apply to the purchase of the land; and
  - (c) state the amount the proponent is offering to pay for the subject land; and
  - (d) if the land required for the project is an easement—include the terms of the easement; and
  - (e) include an offer to pay any reasonable costs incurred by the registered owner in seeking a land valuation or legal advice in respect of the offer; and
  - (f) state the period (the *offer period*) for which the offer has effect.
- (3) The offer period must be for at least 10 business days after the day the final unconditional offer is given to the registered owner.
- (4) In this section—

*required information* means—

  - (a) information updating information about the project, or the land required for the project, previously given to the registered owner by the proponent; and
  - (b) information outlining any change, or proposed change, to the project, or the land required for the project, of which the registered owner has not previously been advised by the proponent.

### **153AF Expiry of approval and extension of expiry day**

- (1) An approval of a project as a private infrastructure facility expires on the day (the *expiry day*) that is 2 years after the gazette notice notifying the approval is published.
- (2) Before an approval of a project as a private infrastructure facility expires—

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- (a) the proponent of the project may apply in writing to the Coordinator-General to extend the expiry day of the approval; or
    - (b) the Coordinator-General may extend the expiry day of the approval on his or her own initiative.
  - (3) An application under subsection (2)(a) must be accompanied by the fee prescribed under a regulation.
  - (4) If the Coordinator-General extends the expiry day of the approval, the Coordinator-General must give each of the following persons written notice of the extension—
    - (a) the proponent;
    - (b) the registered owner of the land on which the infrastructure facility is proposed to be located.
  - (5) If the Coordinator-General decides to refuse the application, the Coordinator-General must, within 28 days after making the decision, give the proponent written notice of the decision and the reasons for it.

### **153AG Amendment or revocation of approval**

- (1) The Governor in Council may, by gazette notice, amend or revoke an approval of a project as a private infrastructure facility.
- (2) The Coordinator-General may on his or her own initiative, or on written application by the proponent to the Coordinator-General, recommend to the Governor in Council that an approval of a project as a private infrastructure facility be amended or revoked.
- (3) An application under subsection (2) must be accompanied by the fee prescribed under a regulation.
- (4) The Governor in Council may amend the approval only if the Governor in Council is satisfied that—
  - (a) the area of land identified as required for the infrastructure facility is consistent with the land assessed in the EIS for the project; and

[s 153AH]

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- (b) each criteria under section 153AC(2) will be met if the amendment is made.
- (5) The Governor in Council may revoke the approval only if the Governor in Council is satisfied that at least 1 of the criteria under section 153AC(2) is no longer satisfied.
- (6) If the Coordinator-General proposes making a recommendation under subsection (2), the Coordinator-General must consult, in the way the Coordinator-General considers appropriate, about the proposal with the persons affected by the proposal.
- (7) If the Governor in Council decides to refuse the application, the Coordinator-General must, within 28 days after the refusal, give the proponent written notice of the decision and the reasons for it.

### **Subdivision 3      Taking land for private                                  infrastructure facility**

#### **153AH Requirements about taking land for private infrastructure facility**

- (1) The Coordinator-General must not take land for a private infrastructure facility under section 125(1)(f) unless satisfied—
  - (a) the proponent has complied with section 153AE for the land; and
  - (b) the project will proceed within reasonable time frames; and
  - (c) if native title exists in relation to the land, the proponent has taken reasonable steps to enter into an indigenous land use agreement for the land.
- (2) The Coordinator-General is not required to take land under section 125(1)(f) that is—
  - (a) in a State development area; or

- (b) owned by the State or a local body.
- (3) Subsection (4) applies if—
  - (a) a project is approved as a private infrastructure facility; and
  - (b) the proponent of the project has agreed with the registered owner of land on which the facility is proposed to be located to purchase the land; and
  - (c) the Coordinator-General is satisfied that it is appropriate for the Coordinator-General to take the land under section 125(1)(f) because statutory restrictions affect the ability of the proponent to complete the project in a timely way.

*Example of statutory restrictions for paragraph (c)—*

restrictions under the *Land Act 1994*, section 175 on subdividing particular leases

- (4) The Coordinator-General may take the land under section 125(1)(f) if the proponent and the registered owner agree, in writing, to the taking of the land by the Coordinator-General.

## **Subdivision 4 Fees and cost of advice or services**

### **153AI Application of sdiv 4**

This subdivision applies to a person who makes—

- (b) an application for an investigator's authority under section 143; or
- (a) a private infrastructure facility application.

### **153AJ Fees**

- (1) The application must be accompanied by the fee prescribed under a regulation for the application.

[s 153AK]

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- (2) If a fee becomes payable under subsection (1), any obligations under this division applying to the Coordinator-General in relation to the application are suspended until the fee has been paid.
- (3) Subsection (2) applies despite any other provision of this part.

### **153AK Recovering cost of advice or services**

If the Coordinator-General obtains from another entity advice or services the Coordinator-General considers necessary to take action under this division in relation to a private infrastructure facility or a proposed private infrastructure facility, the Coordinator-General may recover from the proponent of the facility as a debt the reasonable cost of obtaining the advice or services.

## **Division 8                    Easements for critical infrastructure projects**

### **153A Definitions for div 8**

In this division—

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

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

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

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

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

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

### **153B Registration of critical infrastructure easement**

- (1) This section applies to land that—
  - (a) is the subject of a critical infrastructure project; and
  - (b) is burdened by a relevant public utility easement.
- (2) On receiving an instrument of easement for the land, the registrar must record the particulars of the easement in the appropriate register if—
  - (a) the instrument—
    - (i) relates only to the land affected by the relevant public utility easement; and
    - (ii) is signed by the Minister; and
  - (b) the easement is in favour of the Coordinator-General.
- (3) Despite the *Land Act 1994*, section 363 or the *Land Title Act 1994*, section 83, the easement may be registered under the Acts—
  - (a) without the instrument being signed by a person other than the Minister; and
  - (b) for an easement under the *Land Act 1994*—without the approval of the Minister under that Act.
- (4) The easement is taken to be a public utility easement under the *Land Act 1994*, chapter 6, part 4, division 8, or the *Land Title Act 1994*, part 6, division 4.

### **153C Terms of easement**

A critical infrastructure easement may include the following terms—

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

### **153D Effect of registration of easement**

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

### **153E Transfer of easement**

- (1) With the Minister's written approval, a critical infrastructure easement may be transferred to—
  - (a) another public utility provider; or
  - (b) a person approved by the Minister as suitable to provide a public utility service in relation to the critical infrastructure easement.
- (2) On receiving an instrument evidencing the transfer, the registrar must record the transfer in the appropriate register.



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- (3) The transfer may be recorded in the appropriate register—
    - (a) without the approval of a person other than the Minister; and
    - (b) if the appropriate register is a register under the *Land Act 1994*—without the approval of the Minister under that Act.
  - (4) A person approved by the Minister under subsection (1)(b) is taken to be a public utility provider for the purposes of the critical infrastructure easement.
  - (5) In this section—

**public utility provider** means a public utility provider under—

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

### **153F Amendment of easement**

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

### **153G Minister to give notice of registration or amendment**

- (1) The Minister must, as soon as practicable after a critical infrastructure easement is registered or amended under this division, give written notice of the registration or amendment to each person who has an interest in land the subject of the easement.

[s 153H]

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- (2) The notice must include all of the following—
  - (a) for registration of an easement—particulars of the easement;
  - (b) for amendment of an easement—particulars of the amendment;
  - (c) information about the person's right to claim compensation under section 153I, and the process for claiming the compensation.

### **153H Application of particular provisions**

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

### **153I Compensation**

- (1) Subsection (2) applies to a person who has an interest in land burdened by a critical infrastructure easement—
  - (a) when it is registered under section 153B; or
  - (b) when its terms are amended under section 153F.
- (2) The person has a right to claim compensation under the *Acquisition of Land Act 1967* in relation to the extent to which the person's interest is affected by the registration or amendment.
- (3) For claiming the compensation, the process stated in the *Acquisition of Land Act 1967* for the payment of compensation for land taken under that Act applies with any necessary changes as if the registration or amendment were a taking of land under that Act by the State.
- (4) Other than as stated in this section, a person has no right to compensation for the registration or amendment of a critical infrastructure easement under this division.

### 153J Delegation of Minister's functions under div 8

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

(2) In this section—

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

*Example of standing—*

a person's classification level in the public service

*functions* includes powers.

## Part 7 Finance provisions

### 154 Expenses of works

(1) When works are undertaken by the Coordinator-General—

- (a) for the benefit of a local body or a department of the Government; or
- (b) for the benefit of a particular person; or
- (c) upon the default of or on behalf of a local body;

a regulation may direct the local body or department or person concerned to pay to the Treasurer, at such time or times and on such terms and conditions as specified in the regulation the whole or a proportion, specified in the regulation, of the costs and expenses incurred by or on behalf of the Coordinator-General in connection with the works.

(2) Where there is more than 1 local body or person concerned the regulation may apportion the costs and expenses between or among them and may require payment of each local body or person accordingly.

(3) Moneys required pursuant to this section to be paid and unpaid as required may be recovered by the Treasurer—

[s 155]

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- (a) by action in any court of competent jurisdiction as a debt due and payable to the Treasurer; or
- (b) under the *Statutory Bodies Financial Arrangements Act 1982*, sections 24 to 28, as if a reference in the sections to—
  - (i) the recovery amounts were a reference to moneys to be paid and unpaid under this section; and
  - (ii) a statutory body were a reference to a local body.

### **155 Expenditure generally on work by Coordinator-General**

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

### **156 Subsidies or Treasury loans for works**

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

### **157 The Coordinator-General is a statutory body**

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

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## Part 7A                      Enforcement and general offences

### Division 1                    Enforcement notices

#### Subdivision 1              Giving enforcement notice

##### 157A What is an *enforceable condition*

- (1) An *enforceable condition* is any of the following—
- (a) a condition mentioned in section 34D(3)(b) or (d), 34L(3)(b) or (d), 35I(2), 62 or 71;
  - (b) a requirement recommended under section 35I(2)(b) or 43 that has been included in a designation under the Planning Act, chapter 2, part 5;
  - (c) a stated condition recommended under section 35I(2)(b) or section 52 that has become part of an approval under another Act mentioned in part 4, division 7 (a *relevant approval*);
  - (d) a condition imposed under section 76O;
  - (e) a condition of an environmental approval under part 4A;
  - (f) a condition of an SDA approval;
  - (g) a requirement stated in an approved development scheme for carrying out SDA self-assessable development.
- (2) To remove any doubt, it is declared that a condition or requirement mentioned in subsection (1) continues to be an enforceable condition even though—
- (a) it has become part of a relevant approval; or
  - (b) it has been amended under this Act; or
  - (c) the enforceable condition, as a part of a relevant approval, has been amended under another Act.

### **157B Power to give enforcement notice**

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

*Note—*

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

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## 157C Requirements for enforcement notice

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

- (2) In this section—

*information notice* means a written notice stating—

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

## Subdivision 2 Appeals

### 157D Right of appeal

- (1) The recipient of an enforcement notice may appeal to the Planning and Environment Court against the decision to give the notice.

[s 157E]

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- (2) The appeal must be started within 20 business days after the day the notice is given.

*Note—*

For how to start the appeal and procedures for the appeal, see the *Planning and Environment Court Act 2016*.

### **157E Stay only by application**

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

## **Subdivision 3 Effects of enforcement notice**

### **157F Offence to contravene enforcement notice**

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

Maximum penalty—1,665 penalty units.

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

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



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

Maximum penalty—50 penalty units.

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

Maximum penalty—50 penalty units.

- (4) In this section—

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

### **157H Additional consequence of not giving notice of disposal**

- (1) This section applies if section 157G applies and the recipient of the enforcement notice does not comply with section 157G(2).
- (2) The prospective buyer may end the agreement to dispose of the land or business by written notice given to the recipient before the completion of the agreement or possession under the agreement, whichever is the earlier.
- (3) On the ending of the agreement under subsection (2)—
- (a) a person who was paid amounts by the prospective buyer under the agreement must refund the amounts to the prospective buyer; and
  - (b) the prospective buyer must return to the recipient any documents about the disposal, other than the prospective buyer's copy of the agreement.
- (4) This section has effect despite any other Act or anything to the contrary in the agreement.

## **Division 2                      Enforcement orders**

### **157I    Starting proceeding for enforcement order**

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

### **157J    Making interim enforcement order**

- (1) The Planning and Environment Court may make an order pending a decision of a proceeding for an enforcement order if the court is satisfied it would be appropriate to make the order.
- (2) The court may make the order subject to conditions.
- (3) However, a condition can not require the Coordinator-General to give an undertaking about damages.

### **157K    Making enforcement order**

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

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### 157L Effect of enforcement order

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

### 157M Powers about enforcement orders

- (1) The Planning and Environment Court's power to make an enforcement order to stop, or not to start, an activity may be exercised—
  - (a) whether or not it appears to the court that the person against whom the order is made (the *relevant person*) intends to engage again, or to continue to engage again, in the activity; and
  - (b) whether or not the relevant person has previously engaged in an activity of the same type; and

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

*Note—*

For costs, see the *Planning and Environment Court Act 2016*, part 6.

### **157N Offence to contravene enforcement order**

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

Maximum penalty—3,000 penalty units or 2 years imprisonment.

*Note—*

See also the *Planning and Environment Court Act 2016*, section 36.

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## Division 3                      General offences

### 157O Giving Coordinator-General a false or misleading document

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

Maximum penalty—1,665 penalty units.

### 157OA Coordinator-General may require relevant information

- (1) The Coordinator-General may give a notice under this section to a person requiring the person to give the Coordinator-General information relevant to the administration or enforcement of this Act.
- (2) The notice may only be given to a person the Coordinator-General suspects on reasonable grounds has knowledge of a matter, or has possession or control of a document dealing with a matter, for which the information is required.
- (3) The notice must—
  - (a) be in the approved form; and
  - (b) state the person to whom it is issued; and
  - (c) state the information required; and
  - (d) state the period within which the information is to be given to the Coordinator-General; and
  - (e) state the reasons the information is required; and
  - (f) be given to the person.
- (4) The person must comply with the notice unless the person has a reasonable excuse for not complying with it.

Maximum penalty—50 penalty units.

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- (5) If the person is an individual, it is a reasonable excuse for the individual to fail to comply with the notice if complying with it might tend to incriminate the individual.
- (6) The person does not commit an offence against subsection (4) if the information sought by the Coordinator-General is not in fact relevant to the administration or enforcement of this Act.

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

- (1) The executive officers of a corporation must ensure the corporation complies with sections 84A, 84B, 84C, 157F, 157N and 157O.
- (2) If a corporation commits an offence against section 84A, 84B, 84C, 157F, 157N or 157O each of its executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the section.

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

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

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## **Division 4                      Proceedings for offences**

### **157Q Types of offence under Act**

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

### **157R Who may bring summary proceeding**

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

## **Part 8                              Miscellaneous provisions**

### **Division 1                      Specific powers and functions of Coordinator-General**

#### **158 Power to contract**

- (1) The Coordinator-General may negotiate and enter into contracts for the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers imposed or conferred on the Coordinator-General under any Act.
- (2) A contract entered into by the Coordinator-General shall be made, varied or discharged as follows—
  - (a) a contract that, if made between private persons, would be required by law to be in writing and under seal, shall be made in writing under the seal of the

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Coordinator-General and shall be varied or discharged in like manner;

- (b) a contract that, if made between private persons, would be required by law to be in writing signed by the parties, shall be made under the hand of the person who holds the office of Coordinator-General or the Coordinator-General's delegate, and shall be varied or discharged in like manner;
- (c) a contract that, if made between private persons, would be valid in law though not reduced to writing, may be made without writing by the Coordinator-General or the Coordinator-General's delegate, and may be varied or discharged in like manner.

### **159 Power to compound**

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

### **160 Power to obtain material from watercourse**

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

### **160A Powers for watercourse crossings**

- (1) The Coordinator-General, or a person authorised in writing by the Coordinator-General, may—
  - (a) survey and resurvey a watercourse crossing; and
  - (b) construct, augment, improve, maintain, operate and replace a watercourse crossing; and



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- (c) enter and occupy the relevant land for the purpose of carrying out an activity mentioned in paragraph (a) or (b).
- (2) The Coordinator-General may also name and number a watercourse crossing.
- (3) The Coordinator-General may authorise a person to carry out an activity or exercise a power under subsection (1) even if the activity or exercise benefits a person other than the State or a local body.
- (3A) An authorisation under subsection (1) may be subject to conditions imposed by the Coordinator-General.
- (3B) Despite subsection (1)(c), the relevant land may be entered and occupied only if—
- (a) the owner or occupier of the relevant land has been given written notice of the proposed entry and occupation, including the day the proposed entry and occupation will commence (the *proposed entry day*); and
- (b) the entry and occupation of the relevant land does not commence until the proposed entry day or a later day agreed with the owner or occupier of the land.
- (3C) The proposed entry day stated in a notice given under subsection (3B)(a) must be a day that is at least 7 days after the day the notice is given.
- (4) If the Coordinator-General gives a copy of the prescribed details for an authorisation under subsection (1)(b) or (c) to the registrar of titles, the registrar of titles must note the prescribed details against the relevant land in the appropriate register.
- (5) In this section—
- prescribed details*, for an authorisation under subsection (1)(b) or (c) means the following—
- (a) the name and other identifying details of the watercourse crossing;

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- (b) the name of the person to whom the authorisation is given;
- (c) the term of the authorisation.

**relevant land** means the land adjoining the watercourse crossing.

**transport infrastructure** see the *Transport Infrastructure Act 1994*, schedule 6.

**watercourse** means land that is the property of the State under the *Land Act 1994*, section 9 or 13A(1) or (2).

**watercourse crossing**—

- (a) means transport infrastructure that is, or is proposed to be, situated over, under, on or in a watercourse; but
- (b) does not include river crossings under the *City of Brisbane Act 2010*, section 77.

## **160B Compensation for exercise of power under s 160A**

- (1) This section applies if the Coordinator-General, or a person authorised by the Coordinator-General, enters and occupies land under section 160A(1)(c).
- (2) The owner or occupier of the land may give the Coordinator-General a written notice that claims compensation for damage caused by the entry or occupation of the land, or the carrying out of an activity on the land.
- (3) A claim under subsection (2) must be made—
  - (a) within 1 year after the occupation or activity has ended; or
  - (b) by the later time allowed by the Coordinator-General.
- (4) The amount of compensation, if any, payable under the claim is—
  - (a) the amount agreed between the Coordinator-General and the person that gave the notice under subsection (2); or

- (b) if the Coordinator-General and the person can not agree, the amount decided by the Land Court.
- (5) However, the amount of compensation must not be more than the compensation that would have been awarded if the land had been acquired under the *Acquisition of Land Act 1967*.

## 161 Power as to roads

- (1) This section applies if a rearrangement of roads is required to be made for the undertaking of works by the Coordinator-General or for the implementation of an approved development scheme.
- (2) The Coordinator-General may, by gazette notice, do 1 or more of the following—
  - (a) permanently or temporarily close all or part of an existing road;
  - (b) open and construct new roads;
  - (c) increase the width of a road;
  - (d) divert a road.
- (3) The Coordinator-General may also—
  - (a) make surveys for new roads; and
  - (b) raise or lower the soil of a road.
- (4) Before the closure of all or part of a road takes effect, the Coordinator-General must publish, in a newspaper circulating in the relevant local government area, a notice about the closure.
- (5) Failure to comply with subsection (4) does not invalidate the closure.
- (6) The Coordinator-General may do everything necessary to stop traffic using a road or part of a road closed under subsection (2)(a).
- (7) If all or part of a road is permanently closed, the land comprising the road or part of the road may be—

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- (a) used for the works being undertaken by the Coordinator-General or for the implementation of the approved development scheme; or
  - (b) otherwise disposed of.
- (8) 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.

### **161A Vesting land comprised in permanently closed road or unallocated State land**

- (1) Without limiting section 163, the Coordinator-General may, by gazette notice, declare that unallocated State land in a State development area is vested in the Coordinator-General, in fee simple.
- (2) Subsections (3) and (4) apply if the Coordinator-General, by gazette notice, permanently closes all or part of a road under section 161(2)(a).
- (3) If the gazette notice states that the land comprised in the road or part vests in the Coordinator-General in fee simple, the land so vests.
- (4) If the gazette notice states that the land comprised in the road or part vests in the State, the land becomes unallocated State land.
- (5) Subsections (6) to (9) apply if land vests in the Coordinator-General under subsection (1) or (3).
- (6) The vesting of the land takes effect—
  - (a) on the day the gazette notice is published; or
  - (b) if the gazette notice states a later day—on the later day.
- (7) The chief executive of the department in which the *Land Act 1994* is administered must, under that Act, register the vesting if the Coordinator-General lodges in the land registry under that Act—

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- (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.
- (8) On the registration of the request to vest, the Governor in Council may issue to the Coordinator-General a deed of grant under the *Land Act 1994* for the land the subject of the vesting.
- (9) Despite the *Land Act 1994* and the *Land Title Act 1994*, no fee is payable by the Coordinator-General in relation to the registration of the vesting or to give effect to it.

### **161B Giving information about roads to relevant local government**

- (1) This section applies if, under section 161, the Coordinator-General performs a function or exercises a power relating to a road or former road.
- (2) The Coordinator-General must give the relevant local government the information the Coordinator-General has to allow the local government to comply with its obligation for its map and register of roads under—
- (a) if the local government is the Brisbane City Council—the *City of Brisbane Act 2010*, section 81; or
  - (b) for another local government—the *Local Government Act 2009*, section 74.

### **162 Power to exclude or divert traffic**

- (1) Where the Coordinator-General is satisfied that the proper performance of the Coordinator-General's functions or exercise of the Coordinator-General's powers requires it, the Coordinator-General may—

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

### **163 Power to manage reserves and other lands**

- (1) The Governor in Council may, by proclamation published in the gazette, place under the control and management of the Coordinator-General any land reserved and set apart for a public purpose, any cemetery, park, foreshore or other land, and any building, structure, or other thing that has been provided for out of moneys appropriated by Parliament.
- (2) Upon publication of the proclamation—
- (a) the land, building, structure or other thing concerned shall vest in the Coordinator-General and, in the case of land, for such estate or interest as is specified in the proclamation; and
  - (b) the control and management of the land, building, structure or other thing concerned shall be a function of the Coordinator-General under this Act and a trust or provision that then regulates the management, control or use thereof shall cease to operate.
- (3) The registrar of titles and any other person charged with the duty of recording in a public register dealings affecting the land concerned shall, on the request of the Coordinator-General and production of sufficient notification

of the making of the proclamation, make in the register that relates to the instrument of title to the land all entries necessary to give effect to the proclamation and the provisions of subsection (2).

- (4) The Coordinator-General may, according to the nature of that which the proclamation vests in the Coordinator-General and the purpose for which it is so vested, do all such things as the Coordinator-General thinks fit to effect that purpose and subject thereto to improve the land, building, structure or thing vested in the Coordinator-General.

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

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

- (a) any road; or
- (b) any land other than a road, upon payment of just compensation to the owner and occupier thereof;

all tracks, lines, pipes, conduits, and material of every description required for the proper functioning of works.

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

- (1) During the progress of works undertaken by the Coordinator-General the Coordinator-General—
- (a) shall take proper precautions against accident and to prevent injury to land adjoining the site of the works or to buildings and structures on such land; and
  - (b) shall cause the site of the works to be adequately lighted and guarded during the hours of darkness; and
  - (c) may cause such barricades to be erected across or in any road as the Coordinator-General thinks fit and thereby prevent the passage of traffic.

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- (2) A person shall not take down, remove or alter the position of any barricade erected by or on behalf of the Coordinator-General or extinguish or move any light placed by the Coordinator-General or on his or her behalf save under the authority of the Coordinator-General.

## **Division 2                      Provisions concerning legal liability of Coordinator-General**

### **166      Service on Coordinator-General**

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

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

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

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

- (1) Liability shall not attach to the Coordinator-General, and an action shall not lie against the Coordinator-General, in respect of anything done or omitted to be done by the Coordinator-General or by his or her contractors, officers or workers in or in connection with the construction, maintenance, management or control of any road, bridge or culvert or the approaches to any bridge or culvert save in respect of the negligent acts of the Coordinator-General, the Coordinator-General's officers or workers in connection with the construction, maintenance, management or control thereof.
- (2) A person shall not be entitled to recover against the Coordinator-General, the Coordinator-General's officers or workers, damages in respect of any injury to the person or to



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property on account of anything done or omitted for the purposes of the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers under any Act or arising out of employment for any of those purposes unless—

- (a) in the case of injury to the person—the person alleged to be injured shall, when so required by the Coordinator-General submit himself or herself for examination by a medical practitioner (nominated by the Coordinator-General), who is hereby authorised to make all relevant examinations and tests, and furnish to that medical practitioner all information that the Coordinator-General requires to enable the Coordinator-General to ascertain the true nature and extent of the injury; or
  - (b) in the case of injury to property—the plaintiff shall, when so required by the Coordinator-General, permit a person nominated by the Coordinator-General to enter upon and inspect the property alleged to be injured and furnish to that person all facilities and information that the Coordinator-General requires to enable the Coordinator-General to ascertain the full nature and extent of the injury and the amount (if any) expended in repairing the property.
- (3) Noncompliance with all or any of the provisions of subsection (2) shall not act as a bar to the maintenance of an action or to the recovery of damages therein if the court that determines the action is of opinion that there was reasonable excuse for such non-compliance.

## **168 Personal injury action adjudicated by judge alone**

Every claim for damages in respect of injury to the person, fatal or non-fatal, that is made in an action against the Coordinator-General, the Coordinator-General's officers or workers on account of anything done or omitted for the purposes of the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers

under any Act or arising out of employment for any of those purposes shall, where action is brought in the Supreme Court, be heard and determined by a judge without a jury.

### **169 Officers and workers not personally liable**

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

## **Division 3 Facilitation of execution of Act**

### **171 Publication of document or information by Coordinator-General**

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

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## 172 Mode of service

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

## 173 Regulation-making power

- (1) The Governor in Council may make regulations not inconsistent with this Act providing with respect to the following—
  - (a) the preparation of programs of works, development areas, development schemes, environmental coordination and procedures by or pursuant to which State development areas are to be declared or varied or terminated;
  - (b) the custody and affixing of the official seal of the Coordinator-General or any body corporate established under this Act;
  - (c) the procedure of meetings and the conduct of the business of any body, corporate or unincorporate, established under this Act preservation of the validity of the proceedings of any such body;
  - (d) the manner and detail in which the Coordinator-General, and any body, corporate or unincorporate, shall perform a function or exercise a power imposed or conferred upon the Coordinator-General or it by this Act;
  - (e) safeguarding and securing against trespass, injury, misuse, or use for or in connection with any purpose not authorised by or under this Act, authorised works or lands and property vested in or under the management or control of the Coordinator-General;
  - (f) the use by the public of authorised works or of lands or property vested in or under the management or control of the Coordinator-General for or in connection with any purpose;

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- (g) requirements for environmental impact statements, reports, protected matters reports, studies or the process under part 4, division 3, subdivision 1 or part 4A to allow—
    - (i) the process to be accredited under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth); or
    - (ii) the making of a bilateral agreement under that Act to which the State is proposed as a party; or
    - (iii) the State to meet its obligations under a bilateral agreement under that Act to which the State is a party;
  - (h) the matters for which fees are payable under this Act, the amounts of the fees, the persons who are liable to pay fees, when the fees are payable, the recovery of unpaid amount of fees and the refund of fees;
  - (i) penalties not exceeding 20 penalty units for any breach of the regulations;
  - (j) all matters required or permitted by this Act to be prescribed;
  - (k) all matters, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient to carry out the objects and purposes of this Act.
- (2) Without limiting subsection (1)(h), a regulation may—
- (a) prescribe a fee for monitoring compliance with an imposed condition; and
  - (b) prescribe a fee that is a stated amount, CPI indexed for the year the fee becomes payable.
- (3) Provision made by the regulations may, if the Governor in Council thinks fit, be so made as to require an exercise of discretion or the formation of an opinion by the Minister or by any other person.

### **174 Power of Coordinator-General to make guidelines**

- (1) The Coordinator-General may make guidelines about the matters mentioned in schedule 1B.
- (2) However, if this Act provides that a particular thing must be done in accordance with the guidelines, the Coordinator-General must make guidelines about the thing.
- (3) The Coordinator-General must publicly notify the guidelines.
- (4) The guidelines are statutory instruments under the *Statutory Instruments Act 1992*.

### **175 Approved forms**

- (1) The Coordinator-General may approve forms for use under this Act.
- (2) A form may be approved for use under this Act that is combined with, or is to be used together with, an approved form under another Act.

## **Division 4 Other miscellaneous provisions**

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

- (1) This section applies—
  - (a) to an application under the *Environmental Protection Act 1994* for an environmental authority for the PNG pipeline project; or
  - (b) if, under the *Nature Conservation Act 1992*, section 34, 35 or 38, a person seeks an interest in land in a protected area and the interest sought is for the PNG pipeline project.
- (2) Despite the *Environmental Protection Act 1994*, sections 142 and 143, and the *Nature Conservation Act 1992*, section 39B, an EIS can not be required under those sections in relation to the application or the seeking of the interest.

(3) In this section—

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

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

## **Part 9 Transitional provisions**

### **Division 1 Transitional provision for State Development and Public Works Organisation Amendment Act 1999**

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

- (1) This section applies if—
  - (a) a project involves—
    - (i) development requiring an application for a development approval; or
    - (ii) mining; or
    - (iii) land that the Minister proposes to designate under the repealed *Integrated Planning Act 1997*, section 2.6.8, as community infrastructure; and
  - (b) at the commencement of section 26, the proponent is preparing a study under this Act about the environmental effects of the project; and

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- (c) the Coordinator-General, under section 26, declares the project to be a significant project.
- (2) The proponent may complete the study as if the *State Development and Public Works Organisation Amendment Act 1999* had not commenced.
- (3) The study, when completed and given to the Coordinator-General, is taken to be an EIS prepared under part 4.
- (4) Any written submission made about the study is taken to be a properly made submission for an application for the project if the application—
- (a) is for a development approval requiring impact assessment under the repealed *Integrated Planning Act 1997*; or
  - (b) is for an approval under an Act other than the repealed *Integrated Planning Act 1997* and the application requires public notification.
- (5) Words used in this section that are defined in part 4 have the same meaning in this section.

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

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

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

### **178 Conditions for north-south bypass tunnel project**

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

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

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

In this division—

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

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

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

### **181 Fees**

- (1) The fees stated in schedule 1, part 2 under the heading ‘Significant project declaration and EIS process’ do not apply



to a proponent of a significant project declared before the commencement.

- (2) The fees stated in schedule 1, part 2 do not apply to an evaluation under part 4, division 3A for a notice under former section 35D given before the commencement.

## **182 Enforcement notices and orders**

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

## **Division 4 Transitional provisions for expiry of Queensland Reconstruction Authority Act 2011**

### **183 Definition for div 4**

In this division—

*Reconstruction Act* means the *Queensland Reconstruction Authority Act 2011*.

### **184 Application of div 4**

This division applies on and after the day the Reconstruction Act expires.

*Note—*

The Reconstruction Act expires 2 years after the day it commences.

**185 Requirement for Coordinator-General to advise registrar of titles**

- (1) This section applies if land vests in the Coordinator-General under the Reconstruction Act, section 131.
- (2) As soon as practicable after the land vests in the Coordinator-General, the Coordinator-General must give written notice of the vesting to the registrar of titles.
- (3) On receiving the notice, the registrar of titles must record in the freehold land register that the land has vested in the Coordinator-General.

**186 Dealing with acquisition land**

- (1) The owner of acquisition land must not dispose of the land other than to—
  - (a) if the entity stated in the notice given under the Reconstruction Act, section 44(1)(a)(ii) for the land (the *relevant notice*) is the Queensland Reconstruction Authority—the Coordinator-General; or
  - (b) if paragraph (a) does not apply—the local government stated in the relevant notice for the land.

Maximum penalty—165 penalty units.

- (2) If subsection (1)(a) applies to the owner of acquisition land and the owner gives the Coordinator-General a written notice stating that the owner proposes to sell the land, the Coordinator-General must acquire the land from the owner in the way provided for under section 125 of this Act.
- (3) If subsection (1)(b) applies to the owner of acquisition land, and the owner gives the local government stated in the relevant notice for the land a written notice stating that the owner proposes to sell the land, the local government must acquire the land from the owner in the way provided for under the *Acquisition of Land Act 1967*.
- (4) If any transaction is entered into in contravention of subsection (1), the transaction is not invalid, and the new

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owner is taken to have been given notice under the Reconstruction Act, section 44(1)(a).

(5) This section does not limit the Coordinator-General's power to otherwise take the land under this Act.

(6) In this section—

*acquisition land* means land that, immediately before the expiry of the Reconstruction Act, is land to which section 100 of that Act applies.

## **Division 5                      Transitional provisions for Economic Development Act 2012**

### **188      Definitions for div 5**

In this division—

*amending Act* means the *Economic Development Act 2012*.

*commencement* means the commencement of this section.

*former*, in relation to a provision, means the provision as in force immediately before the commencement.

### **189      Continuation of former matters Coordinator-General considers before making declaration under s 26(1)**

(1) This section applies to an application, under section 27AA for a declaration under section 26(1) about a project, made before the commencement.

(2) Former section 27 continues to apply to the application as if the amending Act had not been enacted.

(3) Section 27AB(c) and (d) does not apply to the application.

### **190      Existing significant projects**

(1) This section applies to a project that immediately before the commencement was a significant project.

- (2) The project is taken to be a coordinated project.
- (3) Former sections 32(4) and 35A(1) continue to apply to the project as if the amending Act had not been enacted.

### **191 References to significant project**

In an Act or other document, a reference to a significant project may, if the context permits, be taken to be a reference to a coordinated project.

### **192 Application of s 35(6)–(9)**

Section 35(6) to (9) applies only to a request by the Coordinator-General to the proponent of a project for supplementary information or comment about an EIS and the project made after the commencement.

### **193 Existing requests for Coordinator-General's approval of use of land for s 84(4)(b)**

- (1) This section applies if a person made a request to the Coordinator-General for the Coordinator-General's approval for a use of land under section 84(4)(b) before the commencement.
- (2) The request must be decided as if the amending Act had not been enacted.

### **194 Continuation of particular former provisions**

- (1) Former part 6, division 6 and the former guidelines continue to apply to the following as if the amending Act had not been enacted—
  - (a) a request made before the commencement to the Coordinator-General seeking, for a proposed infrastructure facility, the Governor in Council's approval under former section 125(1)(f)(ii);

(b) an infrastructure facility approved under former section 125(1)(f)(ii).

(2) In this section—

*former guidelines* means the guidelines in force under former section 174 immediately before the commencement.

## **Division 6                      Transitional provision for Sustainable Planning (Infrastructure Charges) and Other Legislation Amendment Act 2014**

### **195      Particular coordinated projects publicly notified under pt 4**

- (1) This section applies to a coordinated project for which a bilateral project declaration is made under section 54J(1) if, before a bilateral agreement mentioned in section 54H(1)(a) was in force—
- (a) an EIS was prepared for the project under part 4; and
  - (b) the EIS included the matters required by regulation for a project to which the *State Development and Public Works Organisation Regulation 2010*, part 13 applies; and
  - (c) the EIS was publicly notified under section 33.
- (2) The EIS, to the extent it includes the matters mentioned in subsection (1)(b), is taken to be a draft protected matters report for the coordinated project.
- (3) The proponent is taken to have complied with sections 54P and 54Q in relation to the coordinated project.

## **Division 7**                      **Transitional provisions for State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014**

### **196**      **Definitions for div 7**

In this division—

*amending Act* means the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014*.

*commencement* means the commencement of this section.

*former*, in relation to a provision, means the provision as in force immediately before the commencement.

### **197**      **Particular existing coordinated projects**

- (1) This section applies to a coordinated project if—
  - (a) the declaration for the project was—
    - (i) made under section 26(1) before the commencement; and
    - (ii) in effect immediately before the commencement; and
  - (b) before the commencement, the proponent of the project complied with section 33(1).
- (2) Former part 4 continues to apply to the coordinated project as if the amending Act had not been enacted.
- (3) However, on and after 1 July 2015, the fees stated in the *State Development and Public Works Organisation Regulation 2010*, schedule 1B, as in force at 1 July 2015, apply to the coordinated project as if a reference in the provisions to—
  - (a) section 34D were a reference to former section 35; and

- (b) the giving to the proponent of a notice under section 34B were a reference to when the submission period for the EIS ends under section 33(1)(d).
- (4) If a condition mentioned in former section 35(4)(b) or (d) is imposed by the Coordinator-General for the project, the condition is taken to be an enforceable condition under section 157A.

## **198 Existing approved development schemes**

- (1) This section applies to an approved development scheme in effect immediately before the commencement.
- (2) If the approved development scheme states a particular use of land or material change of use of premises can not be carried out without the approval of the Coordinator-General, the use or material change of use is taken to be—
  - (a) SDA assessable development; and
  - (b) regulated development.
- (3) Subsection (4) applies if the approved development scheme states matters or things the Coordinator-General may consider in assessing a proposed use.
- (4) The matters or things are taken to be the matters or things an SDA application for the development may be assessed against.
- (5) A reference in the approved development scheme to—
  - (a) an application to the Coordinator-General for approval to carry out a use of land, or a material change of use of premises, is a reference to an SDA application for approval to carry out a material change of use of premises; and
  - (b) an approval given by the Coordinator-General for a use of land, or a material change of use of premises, is a reference to an SDA approval for a material change of use of premises; and

[s 199]

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- (c) a request to change an approval is a reference to a change application for an SDA approval; and
- (d) an alternative lawful use is a reference to an alternative lawful development; and
- (e) an approved use is a reference to an approved development; and
- (f) an authorised use is a reference to an authorised development.

**199 Existing applications for approval for use of land in a State development area**

- (1) This section applies to an application made under former section 84AA, but not decided, before the commencement.
- (2) For deciding the application, former section 84AB continues to apply as if the amending Act had not been enacted.
- (3) If an approval is given under former section 84AB for the application, the approval is taken to be an SDA approval.

**200 Existing approvals for use of land in a State development area**

- (1) This section applies to an approval given by the Coordinator-General under former section 84AB and in force immediately before the commencement.
- (2) The approval is taken to be an SDA approval.
- (3) However—
  - (a) section 84H does not apply to the approval; and
  - (b) former section 84A continues to apply to the approval as if the amending Act had not been enacted.
- (4) An approval continued in force under subsection (2) is taken to have had effect on the day it had effect under the unamended Act.
- (5) In this section—



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*unamended Act* means this Act as in force before the commencement.

## 201 Existing private infrastructure facility application

- (1) This section applies to a private infrastructure facility application made, but not decided, before the commencement.
- (2) Former part 6, division 7 continues to apply to the application as if the amending Act had not been enacted.

## Division 8 Transitional provision for Mineral and Energy Resources (Common Provisions) Act 2014

### 202 Pre-amended Act continues to apply for particular mining leases

- (1) This section applies if, on or after the commencement—
  - (a) a native title issues decision is made in relation to a proposed mining lease; and
  - (b) a condition is imposed or made under, or is part of, the native title issues decision under the Mineral Resources Act as in force immediately before the commencement.
- (2) The pre-amended Act, section 47, continues to apply to the proposed mining lease.
- (3) In this section—

*commencement* means the commencement of this section.

*native title issues decision* has the meaning given by schedule 1A, section 669(1) of the Mineral Resources Act as in force immediately before the commencement.

*pre-amended Act* means this Act as in force immediately before the commencement.

## **Division 9                      Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016**

### **203      Existing development application under repealed Sustainable Planning Act 2009**

- (1) This section applies to an existing development application for development for a project, to which former part 4, division 4, subdivision 1 applied.
- (2) Former part 4, division 4, subdivision 1 continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) In this section—

*amending Act* means the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

*existing development application* means a development application made under the repealed *Sustainable Planning Act 2009*, to which the Planning Act, section 287 applies.

*former part 4, division 4, subdivision 1* means part 4, division 4, subdivision 1 as in force immediately before the commencement.

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## Schedule 1B Subject matter for guidelines

section 174

### 1 Arrangements about payment of costs and compensation

- (1) Arrangements that may be entered into between the Coordinator-General and a proponent of a project relating to the proponent's payment to the Coordinator-General of the following for the project—
  - (a) costs of taking land under this Act;
  - (b) the payment of compensation payable for the land.
- (2) In this section—

*costs* includes operational, administrative and legal costs.

### 2 Native title guidance

Guidance on native title matters relevant to this Act.

## Schedule 2 Dictionary

### section 2

***accepted submissions***, for a coordinated project or amendment application, for part 4A, see section 54I.

***action***, for part 4A, see the Commonwealth Environment Act, sections 523, 524 and 524A.

***alternative lawful development***, for land, means a lawful, as of right development the owner can carry out on the land.

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

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

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

***approval***, for part 4, see section 24.

***approved development***, for land, means development approved under an SDA approval for the land.

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

***approved person*** see section 100(1).

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

***assessment manager***, for a development application, means the person who is the assessment manager for the application under the Planning Act.

***assessment report***, for part 4A, see section 54W(4).

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

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

**bilateral agreement**, for part 4A, see section 54I.

**bilaterally accredited authorisation process**, for part 4A, see the Commonwealth Environment Act, section 46(2A).

**bilateral project declaration**, for part 4A, see section 54J(1).

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

**building work** see the Planning Act, schedule 2.

**change application**—

- (a) for a development approval—means a change application under the Planning Act for the approval; or
- (b) for an SDA approval—see section 84F(1).

**Commonwealth Environment Act** means the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth).

**Commonwealth Minister** means the Minister of the Commonwealth responsible for administering the Commonwealth Environment Act.

**coordinated project** or **project** means—

- (a) after a declaration under section 26(1) about a project is made by gazette notice, but before the Coordinator-General's report for an EIS or IAR for the project is publicly notified under section 34D(4) or 34L(4)—the project as declared in the gazette notice; or
- (b) otherwise—
  - (i) the project as described in the Coordinator-General's report for the EIS or IAR for the project, including any amendment of the report under section 35AA; or
  - (ii) if 1 or more Coordinator-General's change reports have been prepared for the project—the project as described in the current Coordinator-General's change report for the project.

***coordinated project declaration*** for part 4A, see section 54I.

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

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

***Coordinator-General's report*** see section 24.

***CPI*** means—

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

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

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

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

***critical infrastructure project*** see section 76D.

***decision maker***—

- (a) for part 4, division 4—
  - (i) for a development application—means the assessment manager for the application; or
  - (ii) for a change application—means the responsible entity for the application; or
- (b) for part 5A, see section 76D.

***decision-making period*** means—

- (a) for a development application for a development approval—the period, or extended period, allowed

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under the development assessment rules under the Planning Act for the assessment manager to decide the application; or

- (b) for a change application for a development approval, other than a minor change application—the period, or extended period, allowed under the development assessment rules under the Planning Act for the responsible entity to decide the application.

**decision notice**, for an SDA application, see section 84E(1)(b).

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

**development**—

- 1 Generally, *development* means the use of land or water within the State or over which the State claims jurisdiction and includes the construction, undertaking, carrying out, establishment, maintenance, operation, management, control and decommissioning of any activity, use, works or private works on or in land or water.
- 2 For part 6, the term also includes the following—
  - (i) carrying out building work;
  - (ii) carrying out plumbing or drainage work;
  - (iii) carrying out operational work;
  - (iv) reconfiguring a lot;
  - (v) making a material change of use of premises.

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

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

**drainage work** see the *Plumbing and Drainage Act 2018*, schedule 1.

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

**EIS** means environmental impact statement.

***enforceable condition*** see section 157A.

***enforcement notice*** see section 157B(2).

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

***environment*** includes—

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

***environmental approval***, for part 4A, see section 54I.

***environmental authority***, for part 4, see section 24.

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

***environmental law***, for part 4A, see section 54I.

***environmental matter protected***, for part 4A, see section 54I.

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

***environmental record***, of a proponent or proposed new proponent of a coordinated project, for part 4A, see section 54I.

***EPA Minister***, for part 4, see section 24.

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

***foreshore*** means the part of the bed, shore or banks of the sea or of any harbour, including any tidal navigable river, that is



ordinarily covered and uncovered by the flow and ebb of the tide at spring tides, and includes land that adjoins land with a tidal boundary or right line tidal boundary and is on the same side of the boundary as the water subject to tidal influence and is not ordinarily covered and uncovered by the flow and ebb of the tide at spring tides.

***guidelines*** means guidelines made under section 174.

***IAR*** means an impact assessment report.

***impact***, for part 4A, see the Commonwealth Environment Act, section 527E.

***imposed condition*** see section 54B(2).

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

***information requirement notice***, for part 4A, see section 54S(2).

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

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

***infrastructure facility*** includes any of the following—

- (a) a road, railway, bridge or other transport facility;
- (b) a jetty or port;
- (c) an airport, landing strip or spaceport;
- (d) an electricity generation, transmission or distribution facility;
- (e) a storage, distribution or gathering or other transmission facility for—

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

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

**local body** means—

- (a) a government owned corporation; or
- (b) a statutory body as defined under the *Statutory Bodies Financial Arrangements Act 1982*; or
- (c) another body established under an Act; or
- (d) a rail government entity under the *Transport Infrastructure Act 1994*; or
- (e) a corporation whose shares are wholly owned by—
  - (i) the State; or
  - (ii) the State and 1 or more local governments; or
  - (iii) 1 or more local governments; or
- (f) a corporation whose shares are wholly owned by—
  - (i) a corporation of the type mentioned in paragraph (d); and
  - (ii) 1 or more local governments.

**material change of use**, of premises, for part 6, means—

- (a) the start of a new use of the premises; or
- (b) the re-establishment on the premises of a use that has been abandoned; or

- (c) a material increase in the intensity or scale of the use of the premises.

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

***minor change application*** means a change application for a minor change to a development approval, as defined in the Planning Act.

***MRA Minister***, for part 4, see section 24.

***nominated entity***, for part 4, see section 24.

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

***notifiable approval*** see section 34G(2)(c).

***operational work*** see the Planning Act, schedule 2.

***Planning Act*** means the *Planning Act 2016*.

***plumbing work*** see the *Plumbing and Drainage Act 2018*, schedule 1.

***pre-feasibility assessment*** see section 27AB(d).

***premises***, for part 6, means—

- (a) a building or other structure; or
- (b) land or water within the State or over which the State claims jurisdiction.

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

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

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

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

***prior affected development***, for land, means an alternative lawful development, an approved development or an authorised development for the land.

***prior affected development request*** see section 79A(3)(b)(v).

***private infrastructure facility*** means an infrastructure facility approved under section 153AC(2).

***private infrastructure facility application*** see section 153AA(1).

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

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

***properly made submission***, for a draft EIS, a draft IAR, a proposed change to a coordinated project, a protected matters report or an amendment application, means a submission that—

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

***proponent*** means—

- (a) of a coordinated project—the person who proposes the coordinated project and includes a person who, under an agreement or other arrangement with the person who is the existing proponent of the project, later proposes the project; or
- (b) of a proposed project that is an infrastructure facility—the person who proposes the project and includes a person who, under an agreement or other arrangement with the person who is the existing proponent of the project, later proposes the project.

***protected matters report***, for part 4A, see section 54I.

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

***reconfiguring a lot*** see the Planning Act, schedule 2.

***referral agency*** means a referral agency under the Planning Act.

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

***registered owner***, of land, for part 6, division 7, subdivisions 2 and 3, means—

- (a) the registered owner of a lot under the *Land Title Act 1994* in relation to the land; or
- (b) the person registered in the land registry under the *Land Act 1994* as the holder of a lease from the State under that Act or the repealed *Land Act 1962* for the land.

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

***regulated development*** means development identified in an approved development scheme for a State development area as SDA assessable development or SDA self-assessable development.

***reinstatement request***, for part 4A, see section 54ZJA(2).

***relevant application***, for part 4, division 4, see section 36(b).

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

***relevant local government***—

- (a) for a project, for part 4, see section 24; or
- (b) for a prescribed decision, for part 5A, see section 76D.

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

***responsible entity***, for a change application for a development approval, means the entity that is the responsible entity for the application for the Planning Act.

***revised draft EIS*** see section 34B(2)(d).

**revised draft IAR** see section 34J(2)(c).

**right line tidal boundary** has the same meaning as in the *Land Act 1994*.

**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); or
- (f) a road under the *Land Act 1994*.

**SDA application** means an application for an SDA approval.

**SDA approval** means a decision notice that approves, wholly or partly, development applied for in an SDA application (whether or not the approval has conditions attached to it).

**SDA assessable development** means development that a relevant approved development scheme provides is SDA assessable development.

**SDA self-assessable development** means development that a relevant approved development scheme provides is SDA self-assessable development.

**specified provision**, for part 4A, see section 54I.

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

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

**subject land**, for part 6, division 7, see section 153AA(2)(c).

**submission period**, for part 4 or part 4A, see section 33(1)(d).

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***tidal boundary*** has the same meaning as in the *Survey and Mapping Infrastructure Act 2003*, part 7.

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

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

***water subject to tidal influence***, in relation to a boundary, means the water that is relevant to the identification of the boundary as a tidal boundary or right line tidal boundary.

***within the scope of the bilateral agreement***, for a coordinated project, for part 4A, see section 54H(3).

***works*** means, other than for section 85, the whole and every part of any work, project, service, utility, undertaking or function—

- (a) that the Crown, the Coordinator-General or other person or body who represents the Crown, or any local body is or may be authorised under any Act to undertake; or
- (b) that is or has been (before or after the date of commencement of this Act) undertaken by the Crown, the Coordinator-General or other person or body who represents the Crown, or any local body under any Act; or
- (c) that is included or is proposed to be included by the Coordinator-General as works in a program of works, or that is classified by the holder of the office of Coordinator-General as works.