



# **Economic Development Act 2012**

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## Queensland

# Economic Development Act 2012

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# Economic Development Act 2012

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

## Chapter 1 Preliminary

### Part 1 Introduction

#### 1 Short title

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

#### 2 Commencement

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

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

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

### 3 Main purpose of Act

- (1) The main purpose of this Act is to facilitate the following in the State—
  - (a) economic development;
  - (b) development for community purposes;
  - (c) the provision of diverse housing, including, for example, social housing and affordable housing;
  - (d) the provision of premises for commercial or industrial uses.
- (2) In this section—

*diverse housing* means a range of housing to meet a variety of community needs, including, for example, housing of different size, type, price, built form, density, cost, adaptability and tenure.

*provision*, of diverse housing or premises, includes the funding, facilitation, delivery, supply and ownership of the housing or premises.

### 4 How main purpose is primarily achieved

- (1) The main purpose of this Act is achieved primarily by—
  - (a) establishing MEDQ to plan, carry out, promote or coordinate activities to facilitate in the State the main purpose of this Act while also—
    - (i) seeking the achievement of ecological sustainability; and
    - (ii) valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition; and



- (iii) recognising the cultural heritage significance of places; and
  - (b) providing for a streamlined planning and development framework for particular parts of the State (declared as priority development areas under this Act) to facilitate the main purpose of this Act; and
  - (c) providing for MEDQ to undertake strategic leadership and coordination of place renewal areas.
- (2) In this section—

*cultural heritage significance*, of a place, means its aesthetic, architectural, historical, scientific, social or other significance to the present generation or past or future generations.

*ecological sustainability* means a balance that integrates—

- (a) the protection of ecological processes and natural systems at local, regional, State and wider levels; and
- (b) economic development; and
- (c) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

## **5 Act binds all persons**

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

## Part 2 Interpretation

### Division 1 General

#### 6 Definitions

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

#### 7 Application of provisions

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

### Division 2 Key concepts for housing

#### 7A What is *social housing*

- (1) *Social housing*—
  - (a) means housing provided to an individual for residential use based on eligibility requirements relating to the individual, including, for example, the income and assets of the individual; and
  - (b) includes—
    - (i) public housing under the *Housing Act 2003*, section 8(4); and

- (ii) crisis accommodation.
- (2) However, social housing does not include affordable housing.
- (3) In this section—

*eligibility requirements* means requirements prescribed under the *Housing Act 2003*, section 33(1) relating to the provision of housing services for which a funded provider under the *Housing Act 2003* receives funding.

### **7B What is *affordable housing***

*Affordable housing* is housing that is affordable to particular types of households under criteria prescribed by regulation for the particular type of household.

## **Part 3 Application of Housing Act 2003**

### **7C Purpose of part**

- (1) The purpose of this part is to ensure entities to which MEDQ provides assistance for the purpose of providing social housing are regulated under the *Housing Act 2003* in the same way that entities to which the chief executive under the *Housing Act 2003* provides assistance for the purpose of providing a social housing service are regulated under the *Housing Act 2003*.
- (2) In this section—  
*social housing service* see the *Housing Act 2003*, section 8(2).

### **7D When MEDQ may provide assistance to entity**

MEDQ may provide assistance to an entity for the purpose of providing social housing other than social housing mentioned in section 7A(1)(b) only if—

- (a) the entity is—
  - (i) a registered provider under the *Housing Act 2003*, schedule 4; or
  - (ii) an exempt provider under the *Housing Act 2003*, schedule 4; and
- (b) the chief executive under the *Housing Act 2003* has consented to MEDQ providing the assistance to the entity.

**7E Agreement entered into by MEDQ taken to be funding agreement under Housing Act 2003**

- (1) This section applies if MEDQ enters into an agreement with an entity for the purpose of providing assistance to the entity to assist the entity to provide social housing.
- (2) The agreement is taken to be a funding agreement under the *Housing Act 2003*, section 25.
- (3) The assistance is taken to be funding under the *Housing Act 2003*, section 21(1).
- (4) The entity is taken to be a funded provider under the *Housing Act 2003*, section 21(2).

**7F Asset for which MEDQ provides assistance taken to be community housing asset under Housing Act 2003**

- (1) This section applies to an asset acquired by an entity using assistance provided by MEDQ for the purpose of assisting the entity to provide social housing.
- (2) If the entity is a state provider under the *Housing Act 2003*, the asset is taken to be a state community housing asset under the *Housing Act 2003*.
- (3) If the entity is a national provider under the *Housing Act 2003*, the asset is taken to be a national community housing asset under the *Housing Act 2003*.

---

**7G Application of Housing Act 2003**

- (1) Nothing in this Act prevents the *Housing Act 2003* applying to an entity to which MEDQ provides assistance for the purpose of assisting the entity to provide social housing.
- (2) Without limiting subsection (1)—
  - (a) the entity must comply with the requirements relating to the provision of housing services mentioned in the *Housing Act 2003*, section 33 to the extent the requirements apply to the entity; and
  - (b) the registrar under the *Housing Act 2003* may take action under the *Housing Act 2003*, part 4A, division 4, against the entity, including, for example, cancellation of the entity's registration; and
  - (c) a power under the *Housing Act 2003*, part 7 may be exercised against the entity.

**7H CEO may disclose information to chief executive under Housing Act 2003**

The CEO may disclose anything that comes to the CEO's knowledge under this Act to the chief executive under the *Housing Act 2003* if the CEO is satisfied the disclosure would assist in the performance of the functions of any of the following under the *Housing Act 2003*—

- (a) the chief executive;
- (b) the registrar;
- (c) an authorised officer.

## **Chapter 2            Minister for Economic Development Queensland**

### **Part 1                Establishment**

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

- (1) A corporation sole constituted by the Minister is established under the name Minister for Economic Development Queensland (*MEDQ*).
- (2) The corporation as established under that name—
  - (a) has perpetual succession and a seal; and
  - (b) may sue and be sued in its corporate name.

#### **9            MEDQ represents the State**

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

#### **10          Legal capacity**

- (1) MEDQ has all the powers of an individual and may, for example—
  - (a) enter into contracts, infrastructure agreements and other agreements; and
  - (b) deal in land or other property; and
  - (c) appoint agents and attorneys; and
  - (d) engage consultants; and
  - (e) establish funds and accounts with any financial institution in Australia; and

- 
- (f) fix charges, and other terms, for the performance of a function, or exercise of a power, under this Act; and
  - (g) provide services relating to its functions and charge fees for the services; and
- Example of a service relating to MEDQ's functions—*
- advisory services
- (h) do anything necessary or convenient to be done in the performance of its functions, or exercise of its powers, under this or another Act.
- (2) MEDQ also has the powers conferred on it by this or another Act.
  - (3) In performing its functions, MEDQ may act alone or in conjunction with public sector units, local governments, agencies or instrumentalities of the Commonwealth and other persons.

## 11 Application of other Acts

- (1) MEDQ is—
  - (a) a unit of public administration under the *Crime and Corruption Act 2001*; and
  - (b) a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which MEDQ's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## 12 MEDQ declared to be excluded matter

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

## Part 2 Functions

### 13 MEDQ's functions

- (1) MEDQ's main function is to give effect to the main purpose of this Act.
- (2) MEDQ's other functions, for achieving the main purpose of this Act, include—
  - (a) dealing in land or other property; and
  - (b) coordinating the provision of, or providing, infrastructure and other services; and
  - (c) planning for, and developing and managing land in or for, priority development areas; and
  - (d) deciding PDA development applications under this Act; and
  - (e) undertaking investment activities in property assets to facilitate economic development and development for community purposes.
- (3) In planning for, or developing land in, priority development areas, MEDQ must consult with each relevant local government.

*Note—*

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



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## **Part 3                      Special powers relating to dealings and infrastructure**

### **Division 1                General**

#### **14        Purpose of pt 3**

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

#### **15        MEDQ to act for long-term financial sustainability**

MEDQ must, to the extent practicable, carry out its functions in a way that facilitates the long-term financial sustainability of MEDQ.

### **Division 2                Dealing in land or other property**

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

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

#### **17        Dealing in land or other property generally**

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

- (a) acquire land or other property to facilitate the main purpose of this Act; or

- (b) develop land, including by providing or contributing to the provision of infrastructure on the land, to facilitate the main purpose of this Act; or
- (c) dispose of, lease, license the use or occupation of, or sublease land or other property held by MEDQ to another entity for development by the entity.

## 18 Selling surplus property

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

*Commonwealth or State entity* means—

- (a) a department of the Government of the Commonwealth or the State; or
- (b) a statutory body constituted under an Act of the Commonwealth or the State.

## 19 Conditional disposal of land or other property

- (1) MEDQ may impose a condition or restriction on the disposal of land or other property to an entity (a *transferee*) by MEDQ.
- (2) Without limiting subsection (1), MEDQ and a transferee may agree that the transferee—
  - (a) must make stated improvements to the land or property;  
or

- 
- (b) must undertake a stated activity, within a stated period, in relation to the land or property; or
  - (c) is subject to stated restrictions on the transfer of or dealing with the land or property.
- (3) An agreement under subsection (2) may provide for remedies against, and the power to impose sanctions on, the transferee relating to the agreement.

**19A Exemption from particular disclosure requirements under Body Corporate and Community Management Act 1997**

- (1) This section applies if—
- (a) MEDQ enters into a contract (the *initial contract*) with another entity in relation to the development of land owned by MEDQ; and
  - (b) under the initial contract—
    - (i) the land is proposed to become scheme land under the *Body Corporate and Community Management Act 1997* on the establishment of a community titles scheme under that Act (the *proposed scheme*); and
    - (ii) the other entity is to carry out development of the land or part of the land; and
  - (c) the initial contract provides for MEDQ and the other entity to enter into a further contract for the sale by MEDQ to the entity of lots or proposed lots included in the proposed scheme if, by a date provided for under the initial contract, MEDQ has not sold the lots or proposed lots to another entity.
- (2) A reference in subsection (1)(c) to a further contract includes a reference to a contract required under a provision of the initial contract granting MEDQ an option to sell the lots or proposed lots to the other entity.

- (3) The *Body Corporate and Community Management Act 1997*, sections 212B and 213 do not apply in relation to the initial contract.
- (4) In this section—  
*development* see section 33(2).  
*lot* see the *Body Corporate and Community Management Act 1997*, schedule 6.  
*proposed lot* see the *Body Corporate and Community Management Act 1997*, section 211A.

## Division 3                      Provision of infrastructure

### 20                      Construction of roads

- (1) MEDQ may construct a road for achieving its functions mentioned in section 13(2)(a) and (b).
- (2) The Governor in Council may, by gazette notice, fix a day (the *fixed day*) on and after which the *Local Government Act 2009* or the *City of Brisbane Act 2010* (the *relevant Act*) applies to the road.
- (3) Until the fixed day—
  - (a) the relevant Act does not apply to the road; and
  - (b) MEDQ incurs a duty, obligation, liability or responsibility in relation to an act done or omission made in relation to the road if, and to the extent, a local government would incur the duty, obligation, liability or responsibility if the act had been done or omission had been made by the local government.
- (4) On and after the fixed day—
  - (a) the relevant Act applies to the road as if the road had been constructed by the local government for the area in which the road is located; and

- (b) MEDQ does not have any duty, obligation, liability or responsibility in relation to the road.

## **Division 3A            Acquisition of land**

### **20A    When MEDQ may take land**

- (1) MEDQ may take land for either of the following purposes—
  - (a) to provide infrastructure for the benefit of a priority development area;
  - (b) to give effect to a place renewal framework for a place renewal area.
- (2) However, MEDQ may take the land only if—
  - (a) MEDQ is satisfied the taking of the land is necessary for a purpose mentioned in subsection (1); and
  - (b) the Minister is satisfied the taking of the land is in the public interest.
- (3) MEDQ's power to take the land for a purpose mentioned in subsection (1)—
  - (a) applies even though—
    - (i) the taking of the land is for conferring rights or interests in the land on another entity; and
    - (ii) an entity may derive a measurable benefit from any action taken on the land to facilitate the purpose mentioned in subsection (1); and
  - (b) includes the power to take, from time to time as required, land for a purpose incidental to a purpose mentioned in subsection (1).
- (4) If the taking of the land is for conferring rights or interests in the land on another entity, MEDQ may take the land only if reasonable steps have been taken to obtain the agreement of the owner of the land to actions on the land that would facilitate the purpose mentioned in subsection (1) for which

the land is being taken but the owner has not agreed to the actions.

- (5) The process under the *Acquisition of Land Act 1967* for the taking of land, and the payment of compensation for taking land, applies in relation to the taking of land under this section as if the land were being taken under the *Acquisition of Land Act 1967* by—
  - (a) MEDQ as a constructing authority under the *Acquisition of Land Act 1967*; and
  - (b) the Minister as the relevant Minister under the *Acquisition of Land Act 1967*.
- (6) The *Acquisition of Land Act 1967* must be read with and subject to the modifications and adaptations necessary to give operation and effect to subsection (5).
- (7) 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*.

## **20B Power to take easements and other interests**

- (1) MEDQ's power to take land for a purpose mentioned in section 20A(1) includes—
  - (a) power to take an easement, or another interest in land above or beneath the surface, without acquiring rights in the surface; and
  - (b) power to take a lease of State land or another interest in State land.
- (2) If MEDQ issues a notice of intention to resume a lease of State land, or some other interest in State land that is less than freehold, MEDQ must file a copy of the notice in the appropriate land register kept under the *Land Act 1994*.
- (3) If MEDQ amends or discontinues a resumption mentioned in subsection (2), MEDQ must immediately file a notice of the amendment or discontinuance in the register.

- 
- (4) This division, and the process under the *Acquisition of Land Act 1967* for the taking of land and the payment of compensation for taking land, apply in relation to the easement or other interest mentioned in subsection (1) as if the easement or other interest were land.
  - (5) The *Acquisition of Land Act 1967* must be read with and subject to the modifications and adaptations necessary to give operation and effect to subsections (2), (3) and (4).
  - (6) 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*.
  - (7) In this section—  
*easement* includes a public utility easement under the *Land Act 1994* or the *Land Title Act 1994*.

## **20C Relationship with native title legislation**

- (1) For the taking of land under section 20A and the payment of compensation for the land taken—
  - (a) the process mentioned in section 20A(5) must be carried out in a way that is consistent with the *Native Title (Queensland) Act 1993* and the *Native Title Act 1993* (Cwlth); and
  - (b) if the *Native Title (Queensland) Act 1993* or the *Native Title Act 1993* (Cwlth) states a process in relation to the taking or payment that is in addition to the process stated in the *Acquisition of Land Act 1967*, the 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).
- (2) To remove any doubt, it is declared that this Act is a compulsory acquisition Act under the *Native Title (Queensland) Act 1993*, section 144(4).

## **20D Vesting of land taken under s 20A**

- (1) Land taken under section 20A vests in the entity stated in the gazette resumption notice for the taking of the land on the day the notice is published in the gazette.
- (2) If the land taken under section 20A is a lease of State land or another interest in State land that is less than freehold, as mentioned in section 20B, the land vests in the entity stated in the gazette resumption notice as an estate in fee simple.
- (3) The Governor in Council is authorised to grant in fee simple and so vest the land mentioned in subsection (2) subject to the reservations and conditions that are authorised or required under the *Land Act 1994*.

## **20E Power to use, lease or dispose of land**

MEDQ may, to give effect to a purpose mentioned in section 20A, 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 20A;
- (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 20A;
- (c) sign an agreement with any person in relation to works or development for land taken, or proposed to be taken, under section 20A;
- (d) sell land taken, or agree to sell land to be taken, under section 20A.

## **20F Costs of taking land under s 20A**

- (1) Before MEDQ takes land under section 20A, MEDQ may enter into an agreement with an entity about the costs of taking the land.
- (2) The agreement may require the person to give a guarantee or provide security to MEDQ for the costs.



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- (3) If the person does not pay to MEDQ the costs of taking the land in accordance with the agreement, MEDQ may recover the costs from the person as a debt owing by the person to MEDQ.
  - (4) In this section—  
*costs*, of taking land, includes—
    - (a) operational, administrative and legal costs; and
    - (b) any compensation assessed under the *Acquisition of Land Act 1967* for the taking of the land.

## **20G Application of Acquisition of Land Act 1967, ss 36 and 37**

The *Acquisition of Land Act 1967*, sections 36 and 37 apply in relation to exercising a power to take land under this division as if MEDQ were exercising its power to take land, as a constructing authority, under the *Acquisition of Land Act 1967*.

## **20H Notice of intention to dispose of land that is not required**

- (1) This section applies in relation to land taken under section 20A if, within 7 years after the day the land is taken—
  - (a) the land is still held by the entity in which the land was vested under the gazette resumption notice for the taking of the land; and
  - (b) the land is no longer required by the entity; and
  - (c) the entity intends to dispose of the land.
- (2) The entity must, by notice, advise the previous owner of the land that the entity intends to offer the land to the previous owner.
- (3) The notice must state—
  - (a) that the previous owner must, within 28 days after the day the notice is given, give a notice to the entity stating whether or not the previous owner is interested in buying the land; and

- (b) that the entity may dispose of the land to another person if—
  - (i) the entity does not receive a notice under paragraph (a); or
  - (ii) the notice under paragraph (a) states the previous owner is not interested in buying the land; and
- (c) if the entity has taken an easement under subsection (5)—the nature and terms of the easement.
- (4) If the entity is not MEDQ, the entity must give a copy of the notice to MEDQ.
- (5) Before giving a notice under subsection (2), the entity may take an easement over all or part of the land to ensure the structural and operational integrity of any development infrastructure on the land.
- (6) To remove any doubt, it is declared that this section applies despite the *Acquisition of Land Act 1967*, section 41.

## **20I Power to dispose of land that is not required**

- (1) Subsection (2) applies if the previous owner of land taken under section 20A gives an entity a notice under section 20H(3)(a) stating that the previous owner is interested in buying the land.
- (2) The entity must, by notice, offer the land, subject to any easement over the land, for sale to the previous owner at a price decided by the entity.
- (3) Subsection (4) applies if the previous owner of land taken under section 20A—
  - (a) does not give a notice under section 20H(3)(a) for the land; or
  - (b) gives a notice under section 20H(3)(a) stating that the previous owner is not interested in buying the land; or
  - (c) does not accept an offer for the sale of the land made by the entity.

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- (4) The entity may dispose of the land subject to any easement over the land.
  - (5) In deciding the price for which the land may be sold under subsection (2) or (4), the entity must consider—
    - (a) a valuation by a valuer registered under the *Valuers Registration Act 1992*; and
    - (b) the policies and systems for the management of the entity's assets; and
    - (c) the existence of any easement over the land.
  - (6) A person contracting or otherwise dealing with an entity in relation to land is not required to ask whether section 20A or this section has been complied with.
  - (7) The title of any person to land acquired from the entity is not affected by a failure to comply with section 20A or this section.
  - (8) To remove any doubt, it is declared that this section applies despite the *Acquisition of Land Act 1967*, section 41.

## **Division 4                      Financial arrangements**

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

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

*Example—*

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

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- (2) MEDQ may exercise a power under subsection (1) only if MEDQ has considered a matter prescribed under a regulation about the exercise of the power.
- (3) MEDQ may take any form of security or charge over land or other property if MEDQ considers it appropriate for doing a thing under subsection (1).

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

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

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

### **23 Arrangements to facilitate grant of appropriate lease under Land Act 1994**

MEDQ may, to give effect to the main purpose of this Act, enter into arrangements to facilitate the grant of an appropriate lease to a person under the *Land Act 1994*.

### **24 Research**

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

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

- (c) community needs and expectations.

## Part 4 Economic Development Fund

### 25 Economic Development Fund

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

### 26 Payments of amounts into the Fund

- (1) The following amounts are payable into the Fund—
  - (a) amounts received by MEDQ for a dealing in land or other property under this Act;
  - (b) amounts received by MEDQ for a borrowing under the *Statutory Bodies Financial Arrangements Act 1982*, part 5;
  - (c) amounts received by MEDQ for an investment under the *Statutory Bodies Financial Arrangements Act 1982*, part 6;
  - (d) fees received by MEDQ for applications under chapter 3;
  - (e) special rates and charges received by MEDQ;
  - (f) infrastructure expenses recoupment charges received by MEDQ;
  - (g) any other amounts received by MEDQ in carrying out its functions or exercising its powers under this Act, including, for example, interest received in relation to—
    - (i) a fund or bank account kept under this Act; or
    - (ii) a financial arrangement under section 21;

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

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

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

- (a) paying expenses incurred by MEDQ for—
  - (i) a dealing in land or other property under this Act; or
  - (ii) the provision of infrastructure or other services under this Act; or
  - (iii) the administration or enforcement of this Act; or
  - (iv) performing another function, or exercising another power, under this Act;
- (b) paying fees or expenses related to administering the Fund or a fund or bank account kept under this Act;
- (c) transferring an amount to a local government under section 127(1)(b);

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- (d) paying an amount the Minister and the Treasurer direct MEDQ, in writing, to pay into the consolidated fund.

## 28 Administration of the Fund

The Fund is to be administered by MEDQ.

# Part 5 Reporting and accountability

## Division 1 Reporting generally

### 29 Quarterly reports

- (1) The board must give the Minister a report on MEDQ's operations for each quarter in a financial year.
- (2) A quarterly report must be given to the Minister—
  - (a) within 4 weeks after the end of the quarter; or
  - (b) if another period after the end of the quarter is agreed between the board and the Minister—within the agreed period.
- (3) A quarterly report must—
  - (a) contain the information required to be given in the report under MEDQ's operational plan; and
  - (b) describe how MEDQ has achieved the main purpose of this Act during the quarter; and
  - (c) be signed by the chairperson of the board.
- (4) In this section—

**quarter**, in a financial year, means any of the following periods in the year—

  - (a) 1 July to 30 September;
  - (b) 1 October to 31 December;
  - (c) 1 January to 31 March;

- (d) 1 April to 30 June.

### **30 Board to keep Minister informed**

The board must—

- (a) keep the Minister informed of MEDQ's operations, financial performance and financial position and its achievement of the objectives in its strategic and operational plans; and
- (b) keep the Minister informed of how MEDQ is achieving the main purpose of this Act; and
- (c) give the Minister reports and information to enable the Minister to make informed assessments of matters mentioned in paragraphs (a) and (b); and
- (d) immediately inform the Minister of any matters that arise that, in the board's opinion, may—
  - (i) prevent, or significantly affect, achievement of the objectives in MEDQ's strategic and operational plans; or
  - (ii) significantly affect MEDQ's performance in delivering the outputs under its operational plan.

### **31 Other reporting requirements**

Sections 29 and 30 do not limit the matters of which the board is required to keep the Minister informed, or limit the reports or information that the board is required, or may be required, to give under another Act.

## **Division 2 Annual reports**

### **32 Definition for division**

In this division—



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*annual report* means MEDQ's annual report under the *Financial Accountability Act 2009*.

### **32A Deletion of commercially sensitive matters from annual report**

- (1) This section applies if the board asks the Minister to delete from the copies of an annual report (and accompanying documents) that are to be made public a matter that is of a commercially sensitive nature.
- (2) The Minister may delete the matter from the copies of the annual report (and accompanying documents) that are laid before the Legislative Assembly or otherwise made public.

*Example of a matter that might be deleted—*

pricing information given to MEDQ in response to an unfinished tender process

### **32B Annual report may include a summary of a matter**

An annual report may include a summary of a matter required to be included in the annual report, rather than a full statement of the matter, if—

- (a) the summary indicates that it is a summary only; and
- (b) a full statement of the matter is laid before the Legislative Assembly at the same time as a copy of the annual report is laid before the Legislative Assembly.

### **32C Matters to be included in annual report**

The annual report for a financial year must include the details of all directions given to MEDQ by the Minister under this part or part 6 during the financial year.

## **Division 3                      Strategic and operational plans**

### **32D      Interaction with the Financial Accountability Act 2009**

- (1) If something is required to be done under this division and the same thing, or something to the same effect, is required to be done under the *Financial Accountability Act 2009*, compliance with the *Financial Accountability Act 2009* is sufficient compliance with this division.
- (2) Otherwise, the requirements under this division are in addition to the requirements under the *Financial Accountability Act 2009*.
- (3) If there is an inconsistency between this division and the *Financial Accountability Act 2009*, the *Financial Accountability Act 2009* prevails to the extent of the inconsistency.

### **32E      Draft strategic and operational plans**

- (1) Before 31 March each year, the board must prepare, and give to the Minister for the Minister's agreement, a draft strategic plan and a draft operational plan for the next financial year.
- (2) The board and the Minister must try to reach agreement on the draft plans as soon as possible and, in any event, not later than the start of the financial year.

### **32F      Procedures**

- (1) The Minister may return the draft strategic or operational plan to the board and ask the board—
  - (a) to consider, or further consider, a stated thing and deal with the thing in the draft plan; and
  - (b) to revise the draft plan in the light of its consideration or further consideration.
- (2) The board must comply with the request as a matter of urgency.

- (3) If the draft plan has not been agreed to by the Minister by 1 month before the start of the financial year, the Minister may, by written notice, direct the board—
  - (a) to take stated steps in relation to the draft plan; or
  - (b) to make stated modifications of the draft plan.
- (4) The board must immediately comply with the direction and include a copy of the direction in the plan.

### **32G Strategic or operational plan pending agreement**

- (1) This section applies if the Minister and the board have not agreed to the draft strategic or operational plan before the start of the relevant financial year.
- (2) The draft plan given, or last given, by the board to the Minister before the start of the financial year, with any modifications made by the board, whether before or after that time, at the direction of the Minister, is taken to be MEDQ's strategic or operational plan.
- (3) Subsection (2) applies until a draft strategic or operational plan becomes MEDQ's strategic or operational plan under section 32H.

### **32H Strategic or operational plan on agreement**

When the draft strategic or operational plan has been agreed to in writing by the Minister, it becomes MEDQ's strategic or operational plan for the relevant financial year.

### **32I Compliance with strategic and operational plans**

MEDQ must comply with its strategic and operational plans for a financial year.

### **32J Modifications of strategic or operational plan**

- (1) The board may modify MEDQ's strategic or operational plan only with the written agreement of the Minister.

[s 32K]

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- (2) The Minister may, by written notice, direct the board to modify MEDQ's strategic or operational plan.

### **32K Content of strategic plan**

MEDQ's strategic plan for a financial year must include—

- (a) MEDQ's objectives and intended outcomes; and
- (b) MEDQ's capital structure; and
- (c) MEDQ's annual budget and annual forecasts of revenue; and
- (d) MEDQ's key performance indicators relating to the achievement of the main purpose of this Act; and
- (e) an outline of the following matters—
  - (i) the nature and scope of the activities proposed to be undertaken by MEDQ during the financial year;
  - (ii) MEDQ's main undertakings for the financial year;
  - (iii) the borrowings made or proposed to be made by MEDQ;
  - (iv) MEDQ's policies for minimising or managing any risk of investments and borrowings that may adversely affect its financial stability;
  - (v) MEDQ's policies and procedures relating to the acquisition and disposal of major assets; and
- (f) an outline of the major investments proposed to be undertaken by MEDQ during the financial year.

### **32L Publication of strategic plan**

- (1) MEDQ must publish MEDQ's strategic plan, including any modifications under section 32J, on MEDQ's website.
- (2) However, if MEDQ considers information in the strategic plan may have an adverse effect on the interests of MEDQ, or reveal information that is commercial-in-confidence, MEDQ is not required to publish the information.

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## **Part 6                      Directions about equity and dividends**

### **Division 1                      Direction about equity**

#### **32M      Giving direction**

- (1) The Minister may, at any time, give MEDQ a written direction about payment or transfer of an asset or liability to, or withdrawal or transfer of an asset or liability from, MEDQ's equity.
- (2) MEDQ must comply with the direction.
- (3) The board must ensure the direction is complied with in relation to MEDQ.
- (4) The Minister must, before giving the direction, consult with the board about the proposed direction.

### **Division 2                      Direction about dividends**

#### **32N      Giving direction**

- (1) The Minister may give MEDQ a written direction to pay to the State, for a financial year, a dividend of the amount decided under this part.
- (2) If the Minister gives a direction under subsection (1), MEDQ must pay the dividend within 6 months after the end of the financial year for which it is payable or a longer period allowed by the Minister.

#### **32O      Amount of dividend**

- (1) During the period from 1 to 15 May in a financial year, MEDQ must give the Minister—
  - (a) an estimate of its profit for the financial year; and

[s 32P]

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- (b) a recommendation about the amount of the dividend that may be required to be paid for the financial year.
- (2) Before the end of the financial year, the Minister may—
  - (a) approve the recommendation and give MEDQ a direction to pay a dividend of that amount; or
  - (b) give MEDQ a direction to pay a dividend of a different stated amount.
- (3) The amount of the dividend for a financial year must not be more than the amount that would be allowed to be paid by a company under the Corporations Act, part 2H.5 if MEDQ were a company.

## Part 7 Commonwealth tax equivalents

### 32P Liability for Commonwealth tax equivalents

- (1) The Treasurer may issue a manual (the *tax equivalents manual*) about deciding the tax equivalents to be paid by MEDQ and its subsidiaries.
- (2) Without limiting subsection (1), the tax equivalents manual may provide for—
  - (a) rulings by the tax assessor appointed under subsection (3) on issues about tax equivalents, including the application of rulings under a Commonwealth Act about Commonwealth tax; and
  - (b) the lodging of returns by MEDQ and its subsidiaries; and
  - (c) assessing returns; and
  - (d) the functions and powers of the tax assessor appointed under subsection (3); and
  - (e) objections and appeals against assessments and rulings.
- (3) The Treasurer may appoint a person to be the tax assessor under the tax equivalents manual.

- (4) MEDQ and its subsidiaries must, as required under the tax equivalents manual, pay tax equivalents to the Treasurer for payment into the consolidated fund.
- (5) The Treasurer must table a copy of the tax equivalents manual, and each amendment of the manual, in the Legislative Assembly within 14 sitting days after the manual is issued or the amendment made.
- (6) In this section—  
*Commonwealth tax* means tax imposed under a Commonwealth Act.  
*tax equivalents* means amounts paid by MEDQ or its subsidiaries to the Treasurer, for payment into the consolidated fund, as the value of benefits derived by MEDQ or its subsidiaries because MEDQ is not liable to pay Commonwealth tax that would be payable by MEDQ if MEDQ were not a government entity.

## Part 8 Chief executive officer

### 32Q Appointment

- (1) The Governor in Council must appoint a chief executive officer of MEDQ (the *CEO*).
- (2) The CEO is appointed under this Act and not the *Public Sector Act 2022*.
- (3) To be appointed as the CEO, a person must have a professional qualification relevant to, and professional experience in, an area relating to the main functions of MEDQ.

### 32R Disqualification as CEO

A person is disqualified from being appointed, or continuing as, the CEO if the person—

[s 32S]

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- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) contravenes section 32X, 32Y or 32Z.

### **32S Criminal history report**

- (1) To decide if a person is disqualified from becoming or continuing as the CEO, the Minister may ask the police commissioner for—
  - (a) a written report about the criminal history of the person; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (3) The police commissioner must comply with the request.
- (4) However, the duty to comply applies only to information in the possession of the police commissioner or to which the police commissioner has access.
- (5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

### **32T Term**

- (1) The CEO holds office for the term stated in the CEO's instrument of appointment.
- (2) The stated term must not be more than 5 years.
- (3) The CEO may be reappointed.



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### **32U Remuneration and conditions**

- (1) The CEO is to be paid the remuneration and other allowances decided by the Governor in Council.
- (2) The CEO holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

### **32V Removal by Governor in Council**

The Governor in Council may, on the Minister's recommendation, remove the CEO from office if the Minister is satisfied the CEO—

- (a) has engaged in—
  - (i) inappropriate or improper conduct in an official capacity; or
  - (ii) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or
- (b) has become incapable of performing the CEO's functions; or
- (c) has neglected the CEO's duties or performed the CEO's functions incompetently; or
- (d) has become disqualified under section 32R(d) from continuing as CEO.

### **32W Vacancy in office**

The office of the CEO becomes vacant if the CEO—

- (a) completes a term of office and is not reappointed; or
- (b) resigns office by signed notice given to the Minister; or
- (c) becomes disqualified under section 32R(a), (b) or (c) from continuing as CEO; or
- (d) is removed under section 32V as CEO.

### **32X CEO not to engage in other paid employment**

The CEO must not, without the Minister's prior written approval—

- (a) engage in paid employment outside the responsibilities of—
  - (i) the office of the CEO; and
  - (ii) if the CEO is also appointed as executive officer of the EDQ employing office—the office of the executive officer; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on a business, outside the responsibilities of—
  - (i) the office of the CEO; and
  - (ii) if the CEO is also appointed as executive officer of the EDQ employing office—the office of the executive officer.

### **32Y CEO not to enter into contract with MEDQ**

The CEO must not enter into a contract with MEDQ, other than a contract related to the CEO's employment.

### **32Z Conflicts of interest**

If the CEO has an interest that conflicts, or may conflict, with the discharge of the CEO's responsibilities, the CEO—

- (a) must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the CEO's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

### **32ZA Functions**

- (1) The CEO has the function of ensuring the effective and efficient administration and operation of MEDQ and the performance of its functions.
- (2) The CEO also has the functions given to the CEO under this Act or another Act.

### **32ZB Powers**

- (1) The CEO has the power to do anything necessary or convenient to be done for the performance of the CEO's functions.
- (2) The CEO also has the powers given to the CEO under this Act or another Act.

### **32ZC Delegation**

- (1) The CEO may delegate the CEO's functions under this Act to an appropriately qualified person.
- (2) In this section—  
*functions* includes powers.

### **32ZD Acting CEO**

- (1) The Governor in Council may appoint a person to act as CEO—
  - (a) during a vacancy in the office; or
  - (b) during any period, or during all periods, when the CEO is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.
- (2) The acting CEO is appointed under this Act and not the *Public Sector Act 2022*.

## **Part 9**                      **EDQ employing office**

### **Division 1**                **Establishment**

#### **32ZE Establishment of EDQ employing office**

- (1) The Economic Development Queensland employing office (the *EDQ employing office*) is established.
- (2) The EDQ employing office consists of—
  - (a) the executive officer; and
  - (b) the employees of the EDQ employing office.
- (3) The EDQ employing office is a separate entity from MEDQ.

#### **32ZF EDQ employing office represents the State**

- (1) The EDQ employing office represents the State.
- (2) Without limiting subsection (1), the EDQ employing office has the status, privileges and immunities of the State.

#### **32ZG Application of other Acts**

The EDQ employing office is—

- (a) a unit of public administration under the *Crime and Corruption Act 2001*; and
- (b) a statutory body under—
  - (i) the *Financial Accountability Act 2009*; and
  - (ii) the *Statutory Bodies Financial Arrangements Act 1982*.

#### **32ZH Functions**

- (1) The main functions of the EDQ employing office are—

- (a) entering into, for the State, mobility arrangements under which an employee of the EDQ employing office performs work for or within, or duties in, MEDQ; and
  - (b) employing, for the State, employees to perform work for or within, or duties in, MEDQ under the mobility arrangements mentioned in paragraph (a); and
  - (c) doing anything incidental to the discharge of the functions mentioned in paragraph (a) and (b).
- (2) Also, the EDQ employing office has any other function conferred on the EDQ employing office under this Act or another Act.
- (3) In this section—

*mobility arrangement* see the *Public Sector Act 2022*.

### **32ZI Powers**

- (1) The EDQ employing office has the power to do anything necessary or convenient to be done for the performance of the EDQ employing office's functions.
- (2) The EDQ employing office also has the powers given to it under this Act or another Act.

### **32ZJ Employees**

The employees of the EDQ employing office are to be employed under the *Public Sector Act 2022*.

## **Division 2 Executive officer**

### **32ZK Appointment**

- (1) There is to be an executive officer of the EDQ employing office.
- (2) The executive officer is to be appointed by the Governor in Council.

[s 32ZL]

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- (3) The executive officer is appointed under this Act and not the *Public Sector Act 2022*.
- (4) The executive officer may be the same person as the CEO.

### **32ZL Disqualification as executive officer**

A person is disqualified from being appointed, or continuing, as the executive officer if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) contravenes section 32ZR or 32ZS.

### **32ZM Criminal history report**

- (1) To decide if a person is disqualified from becoming or continuing as the executive officer, the Minister may ask the police commissioner for—
  - (a) a written report about the criminal history of the person; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (3) The police commissioner must comply with the request.
- (4) However, the duty to comply applies only to information in the possession of the police commissioner or to which the police commissioner has access.
- (5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

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### **32ZN Term**

- (1) The executive officer holds office for the term stated in the executive officer's instrument of appointment.
- (2) The stated term must not be more than 5 years.
- (3) The executive officer may be reappointed.

### **32ZO Remuneration and conditions**

- (1) The executive officer is to be paid the remuneration and other allowances decided by the Governor in Council.
- (2) The executive officer holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.
- (3) Despite subsection (1), if the same person is appointed as CEO and executive officer, the person is to be paid only the remuneration and other allowances payable to the person under section 32U.

### **32ZP Removal by Governor in Council**

The Governor in Council may, on the Minister's recommendation, remove the executive officer from office if the Minister is satisfied the executive officer—

- (a) has engaged in—
  - (i) inappropriate or improper conduct in an official capacity; or
  - (ii) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or
- (b) has become incapable of performing the executive officer's functions; or
- (c) has neglected the executive officer's duties or performed the executive officer's functions incompetently; or

[s 32ZQ]

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- (d) has become disqualified under section 32ZL(d) from continuing as executive officer.

### **32ZQ Vacancy in office**

The office of the executive officer becomes vacant if the executive officer—

- (a) completes a term of office and is not reappointed; or
- (b) resigns office by signed notice given to the Minister; or
- (c) becomes disqualified under section 32ZL(a), (b) or (c) from continuing as executive officer; or
- (d) is removed under section 32ZP as executive officer.

### **32ZR Executive officer not to engage in other paid employment**

The executive officer must not, without the Minister's prior written approval—

- (a) engage in paid employment outside the responsibilities of—
  - (i) the office of the executive officer; and
  - (ii) if the executive officer is also appointed as CEO—the office of the CEO; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on a business, outside the responsibilities of—
  - (i) the office of the executive officer; and
  - (ii) if the executive officer is also appointed as CEO—the office of the CEO.

### **32ZS Conflicts of interest**

If the executive officer has an interest that conflicts, or may conflict, with the discharge of the executive officer's responsibilities, the executive officer—



- (a) must disclose the nature of the interest and conflict to the Minister as soon as practicable after the relevant facts come to the executive officer's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the Minister.

### **32ZT Functions**

- (1) The executive officer has the function of ensuring the effective and efficient administration and operation of the EDQ employing office and the performance of its functions.
- (2) The executive officer also has the functions given to the executive officer under this Act or another Act.

### **32ZU Powers**

- (1) The executive officer has the power to do anything necessary or convenient to be done for the performance of the executive officer's functions.
- (2) The executive officer also has the powers given to the executive officer under this Act or another Act.

### **32ZV Delegation**

- (1) The executive officer may delegate the executive officer's functions under this Act to another appropriately qualified employee of the EDQ employing office.
- (2) In this section—  
*functions* includes powers.

### **32ZW Acting executive officer**

- (1) The Governor in Council may appoint a person to act as executive officer—
  - (a) during a vacancy in the office; or

[s 32ZX]

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- (b) during any period, or during all periods, when the executive officer is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.
- (2) The acting executive officer is appointed under this Act and not the *Public Sector Act 2022*.

## Part 10 Identity cards

### **32ZX Issue of identity card for particular employees and agents**

- (1) MEDQ must issue an identity card to each individual whom MEDQ authorises to enter premises under section 123 or 123A.
- (2) The identity card must—
  - (a) contain a recent photo of the individual; and
  - (b) contain a copy of the individual's signature; and
  - (c) identify the individual as an individual who is authorised by MEDQ; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

*Note—*

See also section 122B in relation to the issuing, production and return of identity cards under the Planning Act, chapter 5, part 6 as applied under that section.

### **32ZY Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person in the person's presence, the individual must—
  - (a) produce the individual's identity card for the person's inspection before exercising the power; or

- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the individual must produce the identity card for the person's inspection at the first reasonable opportunity.

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

If an individual ceases to be authorised as mentioned in section 32ZX, the individual must return the individual's identity card to MEDQ within 21 days after ceasing to be so authorised unless the individual has a reasonable excuse.

Maximum penalty—20 penalty units.

## **Chapter 3 Planning and development**

### **Part 1 Preliminary**

#### **33 Development and categories of development**

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

- (b) development that a relevant development instrument for a priority development area provides is PDA assessable development, including PDA-associated development identified in the instrument; or
  - (c) PDA-associated development declared for a priority development area under section 40C(1) and identified by MEDQ under that section to be PDA assessable development.
- (4) ***PDA accepted development*** is—
- (a) development that a regulation provides is PDA accepted development; or
  - (b) development that a relevant development instrument for a priority development area provides is PDA accepted development, including PDA-associated development identified in the instrument; or
  - (c) PDA-associated development declared for a priority development area by MEDQ under section 40C(1) and identified by MEDQ under that section to be PDA accepted development; or
  - (d) development in a priority development area, or PDA-associated development for a priority development area, other than—
    - (i) development or PDA-associated development mentioned in paragraph (a), (b) or (c); or
    - (ii) PDA assessable development.
- (5) If there is an inconsistency between the categorisation of development under a regulation and a relevant development instrument for a priority development area, the regulation prevails to the extent of the inconsistency.

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

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

#### **Subdivision 1**                      **Making of declaration regulations, draft provisional land use plans and provisional land use plans**

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

- (1) A regulation (a *declaration regulation*) may declare a part of the State to be a provisional priority development area.
- (2) Before recommending to the Governor in Council the making of a regulation under subsection (1), the Minister must—
  - (a) consult with the Minister administering the Planning Act; and
  - (b) have regard to—
    - (i) the main purpose of this Act; and
    - (ii) any proposed development for land in the area; and
    - (iii) the impact the Planning Act may have on the delivery of the proposed development if the declaration regulation were not made; and
    - (iv) any State planning instrument applying to land in the area.

#### **35**                      **Draft provisional land use plan required**

- (1) This section applies if the Minister proposes to recommend to the Governor in Council the making of a declaration regulation.

- (2) MEDQ must make a draft provisional land use plan regulating development in the area proposed to be declared as a provisional priority development area (the *proposed area*).
- (3) The draft provisional land use plan may provide for any matter mentioned in section 57(2), (3) or (5).
- (4) The recommendation for the declaration regulation may be made only if MEDQ has made a draft provisional land use plan under subsection (2) for the proposed area.

### **36 When draft provisional land use plan has effect**

The draft provisional land use plan—

- (a) takes effect on the commencement of the declaration regulation; and
- (b) has effect until a provisional land use plan takes effect under section 36F for the provisional priority development area.

### **36A Notice of draft provisional land use plan**

As soon as practicable after the draft provisional land use plan takes effect, MEDQ must—

- (a) publish the draft provisional land use plan on MEDQ's website; and
- (b) publish a gazette notice stating that the draft provisional land use plan has taken effect and is published on MEDQ's website; and
- (c) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice—
  - (i) stating that the draft provisional land use plan has taken effect and is published on MEDQ's website; and
  - (ii) inviting persons to make submissions, within a stated period of at least 15 business days (the

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*submission period*), about the draft provisional land use plan.

### **36B Submissions on draft provisional land use plan**

Any person may, within the submission period, make a submission about the draft provisional land use plan.

### **36C Consideration of submissions and consultation**

- (1) MEDQ must consider any submissions about the draft provisional land use plan received within the submission period.
- (2) Subsection (1) does not prevent MEDQ considering a submission made to it after the submission period has ended.
- (3) Also, MEDQ must—
  - (a) consult on the draft provisional land use plan, in the way it considers appropriate, with the relevant local government; and
  - (b) make reasonable endeavours to consult on the draft provisional land use plan, in the way it considers appropriate, with any government entity, GOC or other entity MEDQ considers will be likely to be affected by the draft provisional land use plan.

### **36D Amendment of draft provisional land use plan**

After complying with section 36C, MEDQ may amend the draft provisional land use plan in any way it considers appropriate.

### **36E Making of provisional land use plan**

- (1) After complying with section 36C, but not later than 60 business days after the draft provisional land use plan takes effect, MEDQ must make a provisional land use plan

regulating development in the provisional priority development area.

- (2) The provisional land use plan may provide for any matter mentioned in section 57(2), (3) or (5).
- (3) Also, within the period mentioned in subsection (1), MEDQ must—
  - (a) prepare a report that—
    - (i) summarises the submissions considered by MEDQ; and
    - (ii) contains information about the merits of the submissions and the extent to which the draft provisional land use plan was amended to reflect the submissions; and
    - (iii) contains details about any other changes made to the draft provisional land use plan; and
  - (b) publish on MEDQ's website—
    - (i) the provisional land use plan; and
    - (ii) the report prepared under paragraph (a); and
  - (c) publish a gazette notice stating that the provisional land use plan is published on MEDQ's website.

### **36F When provisional land use plan takes effect**

The provisional land use plan takes effect at the beginning of the day the gazette notice under section 36E(3)(c) is published.

### **36G MEDQ must give notice of provisional land use plan**

As soon as practicable after the provisional land use plan takes effect, MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that the provisional land use plan—

- (a) has taken effect; and



- 
- (b) is published on MEDQ's website.

## **Subdivision 2 Amending provisional land use plans**

### **36H Minor administrative amendments**

- (1) MEDQ may make a minor administrative amendment of a provisional land use plan.
- (2) If MEDQ makes a minor administrative amendment of a provisional land use plan, MEDQ must—
  - (a) publish on MEDQ's website—
    - (i) the minor administrative amendment; and
    - (ii) the provisional land use plan as amended by the minor administrative amendment (the *amended provisional land use plan*); and
  - (b) publish a gazette notice stating that the minor administrative amendment and the amended provisional land use plan are published on MEDQ's website.
- (3) The minor administrative amendment takes effect at the beginning of the day the gazette notice under subsection (2)(b) is published.
- (4) As soon as practicable after the minor administrative amendment takes effect, MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that—
  - (a) the minor administrative amendment has taken effect; and
  - (b) the minor administrative amendment and the amended provisional land use plan are published on MEDQ's website.

### **36I Other amendments**

- (1) This section applies if MEDQ proposes to make an amendment, other than a minor administrative amendment, of a provisional land use plan.
- (2) MEDQ must—
  - (a) publish the proposed amendment on MEDQ’s website; and
  - (b) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice—
    - (i) stating that the proposed amendment is published on MEDQ’s website; and
    - (ii) inviting persons to make submissions, within a stated period of at least 15 business days (the *submission period*), about the proposed amendment.
- (3) Sections 36B to 36F apply in relation to the proposed amendment of the provisional land use plan as if—
  - (a) a reference in the sections to the draft provisional land use plan were a reference to the proposed amendment of the provisional land use plan; and
  - (b) a reference in the sections to the submission period were a reference to the submission period under subsection (2)(b)(ii); and
  - (c) the reference in section 36E(1) to the draft provisional land use plan taking effect were a reference to the notice under subsection (2)(b) being published; and
  - (d) a reference in section 36E(1) or (2) or 36F to the provisional land use plan were a reference to the amendment of the provisional land use plan; and
  - (e) a reference in section 36E(3)(b)(i) or (c) to the provisional land use plan were a reference to the amendment of the provisional land use plan and the provisional land use plan as amended by the amendment (the *amended provisional land use plan*).

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- (4) As soon as practicable after the amendment of the provisional land use plan takes effect, MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that—
- (a) the amendment has taken effect; and
  - (b) the amendment and the amended provisional land use plan are published on MEDQ’s website.

*Note—*

See also part 3A which provides for the making of a temporary planning instrument that suspends or otherwise affects the operation of a provisional land use plan but does not amend it.

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

### **37            Declaration**

- (1) A regulation (a *declaration regulation*) may declare a part of the State to be a priority development area.
- (2) Before recommending to the Governor in Council the making of a regulation under subsection (1), the Minister must—
  - (a) consult with the Minister administering the Planning Act; and
  - (b) have regard to—
    - (i) the main purpose of this Act; and
    - (ii) any proposed development for land in the area; and
    - (iii) the impact the Planning Act may have on the delivery of the proposed development if the declaration regulation were not made; and
    - (iv) any State planning instrument applying to land in the area.

- (3) The declaration regulation may state an expiry date, recommended by MEDQ, for—
  - (a) the interim land use plan made under section 38(2) for the priority development area; or
  - (b) if more than 1 interim land use plan has been made under section 38(3) for the priority development area—1 or more of the plans.
- (4) The expiry date must be a date that is more than 12 months, but not more than 24 months, after the declaration regulation commences.
- (5) However, MEDQ may recommend an expiry date for subsection (3) only if it considers the expiry date appropriate for the proper and orderly planning, development and management of the priority development area.

*Note—*

See generally section 40AB in relation to the expiry of an interim land use plan.

- (6) To remove any doubt, it is declared that the declaration regulation may state different expiry dates for the interim land use plans mentioned in subsection (3)(b).

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

- (1) This section applies if the Minister proposes to recommend to the Governor in Council the making of a declaration regulation.
- (2) MEDQ must make an interim land use plan regulating development in the entire area proposed to be declared under the declaration regulation as a priority development area (the *proposed area*).
- (3) However, MEDQ may make more than 1 interim land use plan regulating development in the proposed area if—
  - (a) each plan regulates development in a separate part of the proposed area, but the plans together regulate development in the entire proposed area; and

- 
- (b) MEDQ considers the plans will, in an integrated way, promote the proper and orderly planning, development and management of the proposed area.
  - (4) An interim land use plan made under subsection (2) or (3) may provide for any matter mentioned in section 57(2), (3) or (5).
  - (5) The recommendation for the declaration regulation may be made only if MEDQ has made 1 or more interim land use plans under subsection (2) or (3) regulating development in the entire proposed area.

### **39 When interim land use plan takes effect**

An interim land use plan made under section 38(2) or (3) takes effect on the commencement of the declaration regulation.

### **40 Notice of interim land use plan**

As soon as practicable after an interim land use plan takes effect, MEDQ must—

- (a) publish the plan on MEDQ's website; and
- (b) publish a gazette notice stating that the plan has taken effect and is published on MEDQ's website; and
- (c) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice to the same effect as the gazette notice.

### **40AA Period for which interim land use plan has effect**

An interim land use plan for a priority development area has effect until the earliest of the following—

- (a) if the plan regulates development in the entire priority development area—
  - (i) a development scheme takes effect under section 64 for the entire area; or

- (ii) a new interim land use plan is made under section 40AC for the entire area;
- (b) if the plan regulates development in part of the priority development area—
  - (i) a development scheme takes effect under section 64 for that part of the area, whether or not the scheme also takes effect for any other parts of the area; or
  - (ii) a new interim land use plan is made under section 40AC for that part of the area;
- (c) the plan expires under section 40AB.

#### **40AB Expiry of interim land use plan**

- (1) An interim land use plan for a priority development area expires—
  - (a) if the declaration regulation for the area states an expiry date for the plan under section 37(3)—on the stated expiry date; or
  - (b) otherwise—
    - (i) on the day that is 1 year after the day the plan takes effect; or
    - (ii) if a later day is fixed under section 40ABA—on that day.
- (2) However, if a caretaker period begins at any time before an interim land use plan would otherwise expire under subsection (1), the period before the plan expires is extended by a further period equal to the length of the caretaker period plus 20 business days.
- (3) For working out the length of a caretaker period for subsection (2), the day the caretaker period ends is taken to be a whole day.

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#### **40ABA Extension of expiry day for interim land use plan**

- (1) This section applies in relation to an interim land use plan for a priority development area if—
  - (a) the declaration regulation for the area does not state an expiry date for the plan; and
  - (b) a development scheme has not taken effect under section 64 for the area in which the plan regulates development.
- (2) On a day not later than 1 year after the day the plan takes effect, MEDQ may, by gazette notice, fix a later day on which the plan expires.
- (3) The day fixed under subsection (2) may not be later than 2 years after the day the plan takes effect.

#### **40ABB Minor administrative amendments of interim land use plan**

- (1) MEDQ may make a minor administrative amendment of an interim land use plan.
- (2) If MEDQ makes a minor administrative amendment of an interim land use plan, MEDQ must—
  - (a) publish on MEDQ's website—
    - (i) the minor administrative amendment; and
    - (ii) the interim land use plan as amended by the minor administrative amendment (the *amended interim land use plan*); and
  - (b) publish a gazette notice stating that the minor administrative amendment and the amended interim land use plan are published on MEDQ's website.
- (3) The minor administrative amendment takes effect at the beginning of the day the gazette notice under subsection (2)(b) is published.
- (4) As soon as practicable after the minor administrative amendment takes effect, MEDQ must publish, at least once in

a newspaper circulating in the area of the relevant local government, a notice stating that—

- (a) the minor administrative amendment has taken effect; and
- (b) the minor administrative amendment and the amended interim land use plan are published on MEDQ's website.

*Note—*

See also part 3A which provides for the making of a temporary planning instrument that suspends or otherwise affects the operation of an interim land use plan but does not amend it.

#### **40AC Making new interim land use plan**

- (1) MEDQ may, before an interim land use plan for a priority development area (the *current plan*) expires, make a new interim land use plan for the priority development area (the *new plan*).
- (2) The new plan—
  - (a) may provide for any matter mentioned in section 57(2), (3) or (5); and
  - (b) must regulate development in—
    - (i) if the current plan regulates development in the entire priority development area—the entire priority development area; or
    - (ii) otherwise—the part of the priority development area in which development is regulated by the current plan.
- (3) If the new plan is to take effect before the current plan expires, MEDQ must—
  - (a) publish the new plan on MEDQ's website; and
  - (b) publish a gazette notice stating that the new plan is published on MEDQ's website.



- (4) The new plan mentioned in the gazette notice published under subsection (3)(b) takes effect at the beginning of the day the gazette notice is published.
- (5) If the new plan is to take effect on the expiry of the current plan, MEDQ must—
  - (a) before the current plan expires, publish a gazette notice stating that a new plan has been made and will take effect on the expiry of the current plan; and
  - (b) as soon as practicable after the current plan expires, publish the new plan on MEDQ’s website.
- (6) The new plan mentioned in the gazette notice published under subsection (5)(a) takes effect on the day after the day the current plan expires.
- (7) As soon as practicable after a new plan takes effect under subsection (4) or (6), MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that the new plan—
  - (a) has taken effect; and
  - (b) is published on MEDQ’s website.
- (8) The following provisions apply to the new plan—
  - (a) section 40AA;
  - (b) section 40AB other than section 40AB(1)(a);
  - (c) section 40ABB.

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

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

This division applies to development—

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

*Example of development for paragraph (a)—*

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

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

*Note—*

A relevant development instrument may identify and regulate development as PDA-associated development—see, for example, section 57(3) and (5).

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

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

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

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

- (1) MEDQ may, by instrument (a *declaration*), declare development to which this division applies (the *proposed development*) to be PDA-associated development for a priority development area.
- (2) A declaration may be made only if MEDQ is satisfied—
  - (a) the Planning Act may have an adverse effect on the delivery of the proposed development if the declaration were not made; and

- 
- (b) 1 of the following applies—
- (i) the proposed development provides development infrastructure for the priority development area to address the impacts of any development within the area, whether or not the development infrastructure also has another function or purpose;
  - (ii) the proposed development—
    - (A) promotes the proper and orderly planning, development and management of the priority development area in accordance with the relevant development instrument for the area; and
    - (B) gives effect to the main purpose of this Act in the State or in the region in which the priority development area is located; and
    - (C) cannot reasonably be located or accommodated entirely within the priority development area;
  - (iii) the proposed development satisfies another requirement prescribed by regulation.
- (3) A declaration must not compromise the implementation of the relevant development instrument for the priority development area.
- (4) In making a declaration, MEDQ must decide whether the PDA-associated development is—
- (a) PDA assessable development; or
  - (b) PDA accepted development.

*Note—*

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

- (5) In this section—
- development infrastructure*** see the Planning Act, schedule 2.

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

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

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

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

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

- (a) publish the declaration on MEDQ's website; and
- (b) give a copy of the declaration to—
  - (i) each local government in whose area the development is to be located; and
  - (ii) the owner of the land on which the development is proposed to be located; and
  - (iii) each government entity or GOC consulted under section 40B before the making of the declaration.

### **Division 2B Minor boundary changes of priority development areas**

#### **40F Regulation may make particular boundary changes**

- (1) A regulation (a *boundary change regulation*) may amend a declaration regulation made under section 34 or 37 to make either of the following changes (each a *minor boundary change*) to the priority development area declared under the declaration regulation—

- 
- (a) to include additional land in the priority development area;
  - (b) to include additional land in the priority development area and exclude other land from the priority development area.

*Note—*

See chapter 3, part 2, division 3, subdivision 2 in relation to other changes to priority development areas.

- (2) A boundary change regulation may be made only if—
  - (a) the minor boundary change is to correct an error in the boundary of the priority development area; or

*Example—*

including land so the boundary of the priority development area aligns with the intended cadastral boundary of the area

- (b) MEDQ is satisfied the minor boundary change promotes the proper and orderly planning, development and management of the additional land to be included in, or the land to be excluded from, the priority development area.

*Examples—*

- including additional land in a priority development area so part of the boundary of the area aligns with a road constructed after the area was declared
- including additional land in a priority development area so part of the boundary of the area aligns with the boundary of land that was reclaimed after the area was declared

## **40G Recommendation for boundary change regulation**

- (1) This section applies if the Minister proposes to recommend to the Governor in Council the making of a boundary change regulation in relation to a priority development area.
- (2) The recommendation for the making of the boundary change regulation may be made only if—

- (a) for the additional land proposed to be included in the priority development area (the *additional land*), MEDQ has—
  - (i) proposed an instrument amending the relevant development instrument for the priority development area to apply the relevant development instrument to the additional land (the *PDA instrument change*); and
  - (ii) consulted on the proposed instrument under section 40H(1); and
  - (iii) made the instrument under section 40H(2); and
- (b) for any land proposed to be excluded from the priority development area (the *excluded land*), an instrument amending the relevant local government’s planning instruments to provide for the excluded land (the *planning instrument change*) has been—
  - (i) prepared under section 40I; and
  - (ii) consulted on under section 40J; and
  - (iii) made or approved under section 40K.
- (3) However, subsection (2)(b) does not apply if MEDQ decides a planning instrument change is not required to provide for the excluded land.
- (4) MEDQ may make a decision under subsection (3) only if it is satisfied that, without amendment, the relevant local government’s planning instruments adequately provide for the excluded land.

#### **40H Consultation about proposed PDA instrument change and making of PDA instrument change**

- (1) Before preparing the proposed instrument for the PDA instrument change, MEDQ must—
  - (a) consult, in the way it considers appropriate, with the relevant local government; and

- (b) make reasonable endeavours to consult, in the way it considers appropriate, with any government entity, GOC or other entity MEDQ considers will be likely to be affected by the proposed PDA instrument change.
- (2) After complying with subsection (1), MEDQ must decide—
  - (a) to make the instrument for the PDA instrument change; or
  - (b) not to make the instrument for the PDA instrument change.
- (3) In making the decision under subsection (2), MEDQ must consider the main purpose of this Act.

#### **40I Preparation of proposed instrument for planning instrument change**

- (1) If section 40G(2)(b) applies for any excluded land, MEDQ may—
  - (a) prepare the proposed instrument for the planning instrument change; or
  - (b) ask the relevant local government to prepare the proposed instrument for the planning instrument change.
- (2) The entity that prepares the proposed instrument for the planning instrument change is the *proposer* of the planning instrument change.

#### **40J Consultation about proposed instrument for planning instrument change**

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

- (a) either—
  - (i) if MEDQ is the proposer—consult, in the way it considers appropriate, with the relevant local government; or

- (ii) if the relevant local government is the proposer—consult with MEDQ; and
- (b) make reasonable endeavours to consult, in the way the proposer considers appropriate, with any government entity, GOC or other entity the proposer considers will be likely to be affected by the proposed planning instrument change.

#### **40K Making or approving planning instrument change**

- (1) This section applies if—
  - (a) section 40G(2)(b) applies for any excluded land; and
  - (b) the proposed instrument for the planning instrument change has been prepared under section 40I and consulted on under section 40J.
- (2) If the relevant local government is the proposer of the planning instrument change, it must give MEDQ the proposed instrument for its approval.
- (3) MEDQ must decide to—
  - (a) approve the proposed instrument for the planning instrument change; or
  - (b) approve the proposed instrument subject to conditions decided by MEDQ; or
  - (c) refuse to approve the proposed instrument.
- (4) In making the decision under subsection (3), MEDQ must consider the main purpose of this Act.
- (5) If MEDQ decides to approve the proposed instrument for the planning instrument change, it must, by notice given to the relevant local government—
  - (a) for a proposed instrument prepared by MEDQ—make the instrument for the planning instrument change in compliance with any conditions decided under subsection (3)(b); or



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- (b) for a proposed instrument prepared by the relevant local government—approve the instrument for the planning instrument change subject to any conditions decided under subsection (3)(b).
  - (6) If MEDQ, under subsection (3)(b), approves a proposed instrument for a planning instrument change prepared by the relevant local government, the local government must amend the instrument to comply with the conditions.

#### **40L When instruments take effect**

- (1) A PDA instrument change made under section 40H(2) and a planning instrument change made or approved under section 40K take effect on the commencement of the boundary change regulation making the minor boundary changes for which the instruments provide.
- (2) On giving a notice under section 40K(5), the planning instrument change is, for the Planning Act, taken to have been made by the relevant local government.
- (3) However—
  - (a) the planning instrument change—
    - (i) does not create a superseded planning scheme under the Planning Act; and
    - (ii) is not an adverse planning change under that Act; and
  - (b) the Planning Act, section 16(2) and (3) does not apply in relation to the planning instrument change.
- (4) The Planning Act, sections 18, 20, 22 and 23 do not apply for making the planning instrument change.

#### **40M Notice of instruments for minor boundary change**

- (1) As soon as practicable after the boundary change regulation commences, MEDQ must—
  - (a) publish on MEDQ’s website—

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- (i) the PDA instrument change made under section 40H(2); and
  - (ii) if section 40G(2)(b) applied for any excluded land—the planning instrument change made or approved under section 40K; and
  - (b) publish a gazette notice stating that the instruments mentioned in paragraph (a)(i) and (ii) have taken effect and are published on MEDQ’s website; and
  - (c) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice to the same effect as the gazette notice.
- (2) Also, if section 40G(2)(b) applied for any excluded land, the relevant local government must publish on its website the planning instrument change made or approved under section 40K.

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

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

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

- (1) A provisional priority development area ceases to be a provisional priority development area 3 years after its declaration.
- (2) Before a provisional priority development area ceases under subsection (1), MEDQ may, by notice to the relevant local government—
  - (a) approve an amendment of the local government’s planning instruments prepared by the local government to provide for land in the provisional priority development area or any PDA-associated land for the

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- provisional priority development area (the *planning instrument change*); or
- (b) make an amendment of the local government's planning instruments to provide for land in the provisional priority development area or any PDA-associated land for the provisional priority development area (also the *planning instrument change*).
- (3) On the giving of a notice under subsection (2), the planning instrument change is, for the Planning Act, taken to have been made by the local government.
- (4) However—
- (a) the planning instrument change—
    - (i) does not create a superseded planning scheme under the Planning Act; and
    - (ii) is not an adverse planning change under that Act; and
  - (b) the Planning Act, section 16(2) and (3) does not apply in relation to the planning instrument change.
- (5) The Planning Act, sections 18, 20, 22 and 23 do not apply for the making of the planning instrument change.
- (6) Before making a planning instrument change under subsection (2)(b), MEDQ must—
- (a) give the relevant local government the proposed planning instrument change; and
  - (b) invite it to, within 40 business days after it is given the proposed amendment, make submissions to MEDQ about the proposed planning instrument change; and
  - (c) consider any submissions made under paragraph (b).
- (7) The planning instrument change takes effect at the same time as the provisional priority development area ceases under subsection (1).

## Subdivision 2 Priority development areas

### 42 Revocation or reduction of priority development area

- (1) Subsections (2) and (3) apply if the Minister proposes to recommend to the Governor in Council the making of a regulation to amend or repeal a provision of a declaration regulation made under section 34 or 37 (the *PDA change*) so land in a priority development area (the *excluded land*) will no longer be in the priority development area.
- (2) The recommendation for the PDA change may be made only if an instrument amending the relevant local government's planning instruments to provide for the excluded land (the *planning instrument change*) is—
  - (a) proposed and dealt with under sections 42A to 42I, as applicable; and
  - (b) approved under section 42J(2).
- (3) Also, if there is PDA-associated development for the priority development area, the recommendation for the PDA change may be made only if—
  - (a) the Minister has considered how the development should be dealt with; and
  - (b) to the extent the Minister considers it appropriate, the development is provided for in the planning instrument change.
- (4) However, subsection (2) does not apply if—
  - (a) under the regulation the subject of the Minister's proposed recommendation—
    - (i) a part of the State comprising or including the excluded land is to be declared to be a priority development area under section 34 or 37; and
    - (ii) the declaration is to commence at the same time as the PDA change; or
  - (b) the excluded land—

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- (i) is within the master planned area for a priority port and a port overlay has effect for the master planned area; or
  - (ii) is strategic port land under the *Transport Infrastructure Act 1994*, section 286; or
- (c) MEDQ is satisfied that—
- (i) without amendment, the relevant local government's planning instruments adequately provide for the excluded land; or
  - (ii) any amendments required to be made to the relevant local government's planning instruments to provide for the excluded land are minor, have been the subject of adequate consultation and have been made.
- (5) Also, subsections (2) and (3) do not apply only because the Minister proposes to make a boundary change regulation to make a minor boundary change mentioned in section 40F(1)(b).
- (6) In this section—
- master planned area*, for a priority port, see the *Sustainable Ports Development Act 2015*, section 6.
- port overlay* see the *Sustainable Ports Development Act 2015*, section 19(1).
- priority port* see the *Sustainable Ports Development Act 2015*, section 5.

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

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

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

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

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

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

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

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

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

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

#### **42E Public notification**

- (1) This section applies if—
  - (a) the proposed instrument for the planning instrument change is prepared; and
  - (b) for a proposed instrument prepared by the relevant local government—MEDQ has approved the instrument under section 42C(3).
- (2) The proposer must—
  - (a) publish the proposed instrument for the planning instrument change on the proposer’s website; and
  - (b) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice—
    - (i) stating that the proposed instrument for the planning instrument change is published on the proposer’s website; and
    - (ii) inviting persons to make submissions, within a stated period of at least 30 business days (the *submission period*), about the proposed instrument.

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

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

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

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

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

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

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

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



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

- (1) This section applies if, for a proposed instrument for a planning instrument change, the notification requirements—
  - (a) have been complied with; or
  - (b) do not apply under section 42D.
- (2) MEDQ must decide to—
  - (a) approve the proposed instrument for the planning instrument change; or
  - (b) approve the proposed instrument subject to conditions decided by MEDQ; or
  - (c) refuse to approve the proposed instrument.
- (3) In making the decision under subsection (2), MEDQ must consider—
  - (a) the main purpose of this Act; and
  - (b) for a proposed instrument for a planning instrument change prepared by the relevant local government to which the notification requirements apply—the public response report.
- (4) If MEDQ decides to approve the proposed instrument for the planning instrument change under subsection (2), it must, by notice to the relevant local government—
  - (a) for a proposed instrument prepared by MEDQ—make the instrument for the planning instrument change in compliance with any conditions decided under subsection (2)(b); or
  - (b) for a proposed instrument prepared by the relevant local government—approve the instrument for the planning instrument change subject to any conditions decided under subsection (2)(b).
- (5) If MEDQ approves an instrument for a planning instrument change prepared by the relevant local government subject to any conditions decided under subsection (2)(b), the local

government must amend the instrument to comply with the conditions.

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

- (1) On giving a notice under section 42J(4), the planning instrument change is, for the Planning Act, taken to have been made by the relevant local government.
- (2) However—
  - (a) the planning instrument change—
    - (i) does not create a superseded planning scheme under the Planning Act; and
    - (ii) is not an adverse planning change under that Act; and
  - (b) the Planning Act, section 16(2) and (3) does not apply in relation to the planning instrument change.
- (3) The Planning Act, sections 18, 20, 22 and 23 do not apply for making the planning instrument change.
- (4) The planning instrument change takes effect at the same time as the PDA change.

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

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

- (a) MEDQ must publish the instrument for the planning instrument change on MEDQ's website; and
- (b) the relevant local government must publish the instrument on its website; and
- (c) the proposer must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating the instrument—
  - (i) has been approved; and
  - (ii) may be inspected on the proposer's website; and

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- (d) the proposer must give each person who made a submission about the proposed instrument for the planning instrument change, received within the submission period, a notice stating that—
- (i) the instrument has been approved; and
  - (ii) the public response report about the proposed instrument may be inspected on the proposer's website.

### **Subdivision 3      Other matters**

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

- (1) This section applies if—
- (a) a PDA development approval comes into effect; and
  - (b) immediately before the approval comes into effect, a material change of use, for a use implied by the approval, was PDA accepted development; and
  - (c) a planning instrument change is made before the use starts.
- (2) The use is taken to be a lawful use in existence immediately before the planning instrument change is made or taken to have been made.

#### **43      Interim local laws**

- (1) This section applies if land ceases to be in a priority development area and, immediately before the cessation, by-laws applied to the area.
- (2) A regulation may make a local law (the *interim local law*) for the land, about any matter provided for under the by-laws.
- (3) However, the regulation may be made only if the relevant local government has agreed to the making of the regulation.

- (4) For the *Local Government Act 2009* or the *City of Brisbane Act 2010*, the interim local law is taken to have been made under that Act by the relevant local government.
- (5) The interim local law expires 12 months after it commences.

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

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

#### **43A    References to declaration of area as priority development area**

A reference in this subdivision to the declaration of an area as a priority development area includes a reference to the inclusion, under a boundary change regulation, of an additional area in a priority development area.

#### **44      Pre-existing applications under Planning Act**

- (1) This section applies if—
  - (a) an area is declared as a priority development area; and
  - (b) before the area is declared, any of the following applications were properly made under the Planning Act in relation to premises in the area—
    - (i) a development application;
    - (ii) a change application;
    - (iii) an extension application;
    - (iv) a cancellation application; and
  - (c) immediately before the area is declared, the application had not lapsed or been decided under that Act.

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- (2) Despite the declaration of the priority development area, the Planning Act continues to apply in relation to the application as if the area had not been declared.

#### **45 Particular development approvals under Planning Act**

- (1) This section applies if—
- (a) an area is declared as a priority development area; and
  - (b) a development approval under the Planning Act for development on premises in the area—
    - (i) was in effect immediately before the declaration; or
    - (ii) is given for an application mentioned in section 44 after the declaration.
- (2) Despite the declaration of the priority development area, the development approval continues in effect for carrying out the development.
- (3) However, only the following applications under the Planning Act may be made to the development approval—
- (a) a change application to make a minor change under that Act;
  - (b) a cancellation application.
- (4) To remove any doubt, it is declared that, for applying subsection (3), the Planning Act continues to apply in relation to the application as if the priority development area had not been declared.

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

- (1) This section applies in relation to balance port land that is in the Northshore Hamilton urban development area.
- (2) A person may apply to MEDQ to restart a use of premises on the land if—

- (a) the use—
    - (i) is authorised under a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect; or
    - (ii) was a lawful use of premises immediately before the taking of effect of the first interim land use plan; or
    - (iii) is generally consistent with a use mentioned in subparagraph (i) or (ii); and
  - (b) the application is made within 6 months after the use stopped.
- (3) For making, dealing with and deciding the application, part 4, division 3 applies, with any necessary changes, as if it were a PDA development application.
- (4) A person may, under section 99, apply to MEDQ to change a development approval for a use mentioned in subsection (2)(a)(i) or (ii) to an extent that—
- (a) only changes the configuration or layout of buildings, other structures or plant; and
  - (b) does not involve an extension of the area of any buildings, other structures or plant.
- (5) A person may apply to MEDQ to change a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect, as if the approval were a PDA development approval.
- (6) An application under subsection (4) or (5) may be made under section 99 as if it were an amendment application under that section.

*Note—*

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

- (7) An application mentioned in this section may be made to MEDQ, and approved by MEDQ, despite any provision of the

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Northshore Hamilton UDA Development Scheme 2009 that prohibits the development.

(8) An application mentioned in this section may be made in relation to premises at any time until the day the term of the current lease for the premises ends.

(9) In this section—

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

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

*Note—*

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

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

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

## 47 Designation of premises for development of infrastructure under Planning Act

To remove any doubt, it is declared that—

- (a) the Planning Act, chapter 2, part 5 applies in relation to premises in, or partly in, a priority development area; and
- (b) a designation of premises under the Planning Act that is in force immediately before all or part of the premises are in a priority development area, continues in force despite the priority development area taking effect.

## **Subdivision 2      Effect of cessation of priority development areas and PDA-associated development**

### **48      Application of subdivision**

This subdivision applies if—

- (a) land (the *former PDA land*) ceases to be in a priority development area; or
- (b) PDA-associated development (the *former PDA-associated development*) for a priority development area ceases to be PDA-associated development for the area.

### **49      References to cessation**

In this subdivision—

- (a) a reference to cessation in relation to the former PDA land is, if the context permits, a reference to the time the land ceases to be in the priority development area; and
- (b) a reference to cessation in relation to the former PDA-associated development is, if the context permits, a reference to the time the development ceases to be PDA-associated development for the priority development area.

### **50      Existing PDA development approvals**

- (1) This section applies if, immediately before the cessation, a PDA development approval was in effect for the former PDA land or former PDA-associated development.
- (2) On the cessation, the PDA development approval is taken to be a development approval under the Planning Act that took effect at the same time as the PDA development approval.
- (3) However, subsection (2) does not apply to the extent the PDA development approval involves a water connection aspect.



*Note—*

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a PDA development approval in effect immediately before the cessation, see division 4A.

## **50A Existing PDA exemption certificates**

- (1) This section applies if, immediately before the cessation, a PDA exemption certificate is in effect for the former PDA land or former PDA-associated development.
- (2) On the cessation, the PDA exemption certificate is taken to be an exemption certificate under the Planning Act for—
  - (a) if the PDA exemption certificate is for carrying out development on former PDA land—carrying out the development on the land; or
  - (b) if the PDA exemption certificate is for carrying out former PDA-associated development on land—carrying out the development on the land.
- (3) The exemption certificate under the Planning Act takes effect at the same time as the PDA exemption certificate.
- (4) A condition of the PDA exemption certificate is taken to be a condition of the exemption certificate under the Planning Act, even if the condition could not be imposed under that Act.
- (5) Subsections (6) and (7) apply if the PDA exemption certificate states, under section 71A(5)(c), a period within which a plan mentioned in the section must be given to MEDQ.
- (6) If the plan has been given to MEDQ within the period and before the cessation, the development is taken, for the Planning Act, section 46(10), to comply with a requirement stated under section 46(9)(c) of that Act.
- (7) If the plan has not been given to MEDQ before the cessation, the statement mentioned in subsection (5) is taken to be a statement under the Planning Act, section 46(9)(c) of the period within which a plan mentioned in that section must be

given to the local government for the local government area to which the exemption certificate relates.

- (8) The chief executive of the department responsible for administering the Planning Act must publish on that department's website a copy of MEDQ's notice about the PDA exemption certificate published under section 71B(3).

## **51 Existing PDA development applications**

- (1) This section applies to a PDA development application made, but not decided, before the cessation for the former PDA land or former PDA-associated development.
- (2) The PDA development application must continue to be decided under this Act as if—
  - (a) the cessation had not happened; and
  - (b) the PDA development application were being decided immediately before the cessation.
- (3) If a PDA development approval is given for the PDA development application, the approval is, immediately after it takes effect under this Act, taken to be a development approval under the Planning Act that took effect at the same time as the PDA development approval.
- (4) However, subsection (3) does not apply to the extent the PDA development approval involves a water connection aspect.

*Note—*

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a PDA development approval given under this section, see division 4A.

## **51AA Existing amendment applications**

- (1) This section applies if—
  - (a) before the cessation, an amendment application has been made, but not decided, for a PDA development approval for the former PDA land or former PDA-associated development; and

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- (b) on the cessation, all or part of the PDA development approval is taken, under section 50(2), to be a development approval under the Planning Act.
- (2) The amendment application must continue to be decided under this Act as if—
    - (a) the cessation had not happened; and
    - (b) the PDA development approval were still a PDA development approval; and
    - (c) the amendment application were being decided immediately before the cessation.
  - (3) If a changed PDA development approval is given for the amendment application, the changed PDA development approval is, immediately after it takes effect under this Act, taken to be a development approval under the Planning Act.
  - (4) However, subsection (3) does not apply to the extent the changed PDA development approval involves a water connection aspect.

*Note—*

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a changed PDA development approval given under this section, see division 4A.

### **51AB Existing applications to extend currency period**

- (1) This section applies if—
  - (a) before the cessation, an application has been made under section 101, but not decided, to extend the currency period of a PDA development approval for—
    - (i) the former PDA land; or
    - (ii) the former PDA-associated development; and
  - (b) on the cessation, all or part of the PDA development approval is taken, under section 50(2), to be a development approval under the Planning Act.

- (2) The application must continue to be decided under this Act as if—
  - (a) the cessation had not happened; and
  - (b) the PDA development approval were still a PDA development approval; and
  - (c) the application were being decided immediately before the cessation.
- (3) If the decision is to grant the extension, the decision is taken to be a decision under the Planning Act, section 87 to extend the currency period of the development approval under that Act.
- (4) If the decision is to refuse the extension, the development approval under the Planning Act lapses on the later of the following to happen—
  - (a) the currency period of the PDA development approval under this Act, including any extension of that period under section 102, ends;
  - (b) the person who made the application is given notice of the decision under section 102(4).
- (5) Despite the Planning Act, section 229, a person may not appeal under that Act against the decision on the application.

### **51AC Existing appeals to Planning and Environment Court**

- (1) This section applies if—
  - (a) before the cessation, a person has appealed under section 90 against MEDQ's decision to impose a condition on a PDA development approval for—
    - (i) the former PDA land; or
    - (ii) the former PDA-associated development; and
  - (b) on the cessation, all or part of the PDA development approval is taken, under section 50(2), to be a development approval under the Planning Act; and

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- (c) immediately before the cessation, the appeal has not been decided.
  - (2) The Planning and Environment Court must hear, or continue to hear, and decide the appeal under section 90 as if—
    - (a) the cessation had not happened; and
    - (b) the PDA development approval were still a PDA development approval.
  - (3) If the decision on the appeal is to give a changed or replacement PDA development approval, the changed or replacement PDA development approval is taken to be a development approval under the Planning Act.
  - (4) However, subsection (3) does not apply to the extent the changed or replacement PDA development approval involves a water connection aspect.

*Note—*

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a changed or replacement PDA development approval given under this section, see division 4A.

## **51AD Appeals to Planning and Environment Court after cessation**

- (1) This section applies if—
  - (a) immediately before the cessation, a person could have appealed under section 90 against MEDQ’s decision to impose a condition on a PDA development approval for—
    - (i) the former PDA land; or
    - (ii) the former PDA-associated development; and
  - (b) on the cessation, all or part of the PDA development approval is taken, under section 50(2), to be a development approval under the Planning Act; and
  - (c) immediately before the cessation, the person has not appealed.

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- (2) This section also applies if a person could have appealed under section 90 against MEDQ's decision to impose a condition on a PDA development approval given under section 51 or 51AA if the cessation had not happened.
- (3) The person may appeal, and the Planning and Environment Court must hear and decide the appeal, under section 90 as if—
  - (a) the cessation had not happened; and
  - (b) the PDA development approval were still a PDA development approval.
- (4) The appeal must be started within the period mentioned in section 90(3).
- (5) If the decision on the appeal is to give a changed or replacement PDA development approval, that approval is taken to be a development approval under the Planning Act.
- (6) However, subsection (5) does not apply to the extent the changed or replacement PDA development approval involves a water connection aspect.

*Note—*

For the effect of the cessation of a priority development area or PDA-associated development on the water connection aspect of a changed or replacement PDA development approval given under this section, see division 4A.

### **51AE Process for approving plans of subdivision**

- (1) This section applies if the process under section 104(3) for approving a plan of subdivision for the former PDA land had started, but not ended, before the cessation.
- (2) Section 104 continues to apply in relation to the plan of subdivision as if—
  - (a) the cessation had not happened; and
  - (b) for a plan of subdivision authorised or required under the part of a PDA development permit that, under section 50(2), becomes a development approval under

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the Planning Act—the PDA development permit were still a PDA development permit; and

- (c) for a plan of subdivision for reconfiguring a lot that, before the cessation, was PDA accepted development—the reconfiguration were still PDA accepted development.
- (3) For registering the plan of subdivision under the *Land Title Act 1994*, anything done by MEDQ under section 104 in relation to the plan is taken to have been done by the local government for the local government area to which the plan relates.
- (4) In this section—  
*plan of subdivision* see section 104(4).

#### **51AF Registering particular plans of subdivision approved before cessation**

- (1) This section applies if—
  - (a) before the cessation, MEDQ approved a plan of subdivision for the former PDA land under section 104; and
  - (b) immediately before the cessation, the plan of subdivision has not been registered under the *Land Title Act 1994*.
- (2) For registering the plan of subdivision under the *Land Title Act 1994*, anything done by MEDQ under section 104 in relation to approving the plan is taken to have been done by the local government for the local government area to which the plan relates.
- (3) In this section—  
*plan of subdivision* see section 104(4).

#### **51AG Lawful uses of premises**

- (1) This section applies if, immediately before the cessation—

- (a) a use of premises that are, or are on, former PDA land is a lawful use of the premises under this or another Act; or
  - (b) a use of premises as a consequence of the carrying out of former PDA-associated development is a lawful use of the premises under this or another Act.
- (2) On and from the cessation, the use is taken to be a lawful use of the premises under the Planning Act.

### **Subdivision 3      Dealing with converted PDA development approvals**

#### **51AH Application of subdivision**

This subdivision applies if all or part of a PDA development approval becomes, under subdivision 2, a development approval under the Planning Act (a *Planning Act approval*).

#### **51AI Conditions and enforcement authorities under Planning Act**

- (1) A PDA development condition of the PDA development approval or part is taken to be a development condition of the Planning Act approval under the Planning Act, even if the condition could not be imposed under that Act.
- (2) The enforcement authority under the Planning Act for the development the subject of the Planning Act approval is taken to be the entity that would have been the enforcement authority under that Act if—
  - (a) for a Planning Act approval for former PDA land—the land had never been in a priority development area; and
  - (b) for a Planning Act approval for former PDA-associated development—the development had never been PDA-associated development; and
  - (c) a development application for the Planning Act approval had been made under that Act, the repealed *Sustainable*



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*Planning Act 2009* or the repealed *Integrated Planning Act 1997* as in effect when the application for the PDA development approval was made.

### **51AJ Proceedings about Planning Act approvals**

- (1) Despite the Planning Act, section 229, a person may not appeal under that Act in relation to—
  - (a) the Planning Act approval or its conditions; or
  - (b) a decision made under this Act in relation to the Planning Act approval or its conditions.
- (2) To remove any doubt, it is declared that subsection (1) does not limit or otherwise affect—
  - (a) an appeal mentioned in section 51AC(1)(a) or brought under section 51AD; or
  - (b) a right to bring an appeal under the Planning Act, section 229 against a decision on either of the following applications made under that Act for the Planning Act approval—
    - (i) a change application;
    - (ii) an extension application.
- (3) Subsection (4) applies to a proceeding under the *Planning and Environment Court Act 2016*, section 11 seeking a declaration in relation to—
  - (a) the Planning Act approval or its conditions; or
  - (b) a decision made under this Act in relation to the Planning Act approval or its conditions.
- (4) The proceeding may be brought only by the entity that is, under section 51AI(2), the enforcement authority under the Planning Act for the Planning Act approval.

### **51AK Lapsing of Planning Act approvals**

- (1) Section 100(2) to (5) continues to apply in relation to the Planning Act approval, instead of the Planning Act, section 85—
  - (a) as if a reference in section 100 to a PDA development approval were a reference to the Planning Act approval; and
  - (b) subject to—
    - (i) section 51AB(4); and
    - (ii) any extension of the currency period of the PDA development approval given under this Act; and
    - (iii) any extension of the currency period of the Planning Act approval given under the Planning Act; and
  - (c) with any other necessary changes.
- (2) Subsection (3) applies if—
  - (a) the Planning Act approval is for reconfiguring a lot; and
  - (b) a plan for the reconfiguration was not given to MEDQ under section 100(2)(b) before the approval became a Planning Act approval.
- (3) Section 100(2)(b) applies in relation to the Planning Act approval as if a reference in the section to MEDQ were a reference to the local government for the local government area to which the approval relates.

### **51AL Extension applications under Planning Act for Planning Act approvals**

- (1) For applying the relevant planning provisions to an extension application under the Planning Act for the Planning Act approval—
  - (a) the approval's currency period is taken to be the currency period applying for the Planning Act approval

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- under section 100, as applied under section 51AK, including any extension of that period—
- (i) given under this Act for the PDA development approval; or
  - (ii) given under the Planning Act; and
- (b) a reference in the relevant planning provisions to the assessment manager includes a reference to the entity that would be the prescribed assessment manager for a development application made under the Planning Act—
- (i) for the development the subject of the Planning Act approval; and
  - (ii) at the time the extension application is made; and
- (c) a reference in the relevant planning provisions to a referral agency or concurrence agency includes a reference to—
- (i) an entity that was, under section 88(a), a nominated assessing authority for a PDA development condition of the PDA development approval, if the condition is a condition of the Planning Act approval; and
  - (ii) another entity prescribed by regulation; and
- (d) a reference in the Planning Act, section 87(7) to section 85 of that Act includes a reference to section 100(2); and
- (e) the relevant planning provisions apply with any other necessary changes.
- (2) In this section—
- relevant planning provisions*** means the following provisions—
- (a) the Planning Act, sections 86 and 87;
  - (b) the Planning Act, chapter 3, part 6;
  - (c) the Planning Act, section 229;

- (d) the Planning Act, schedule 1, section 1, table 1, item 3;
- (e) the development assessment rules under the Planning Act.

### **51AM Changes to Planning Act approvals that are minor changes for Planning Act**

- (1) This section applies if a change application is made under the Planning Act for the Planning Act approval.
- (2) Despite the Planning Act, schedule 2, definition *minor change*, the change to the Planning Act approval is a minor change for that Act unless—
  - (a) the change results in substantially different development; or
  - (b) the development the subject of the Planning Act approval, including the change, is prohibited development under the Planning Act; or
  - (c) both of the following apply—
    - (i) a development application for the development the subject of the Planning Act approval, made under the Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997* when the application for the PDA development approval was made, would not have required public notification under the Act under which it was made;
    - (ii) a development application for the development the subject of the Planning Act approval, including the change, made under the Planning Act when the change application was made, would require public notification under section 53 of that Act.

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### **51AN Responsible entities for change applications under Planning Act for Planning Act approvals**

Despite the Planning Act, section 78A(1), the responsible entity for a change application made under that Act to change the Planning Act approval is—

- (a) if the change is, under section 51AM, a minor change to a condition of the Planning Act approval for which there was, under section 88(a), a nominated assessing authority—the nominated assessing authority; or
- (b) if the change is to another condition of the Planning Act approval that was a PDA development condition of the PDA development approval—the entity prescribed by regulation; or
- (c) if paragraphs (a) and (b) do not apply—the entity that would be the prescribed assessment manager for a development application made under the Planning Act—
  - (i) for the development the subject of the Planning Act approval, including the change; and
  - (ii) at the time the change application is made.

### **51AO Change applications under Planning Act for Planning Act approvals**

- (1) For applying the relevant planning provisions to a change application made under the Planning Act to change the Planning Act approval—
  - (a) a reference in the Planning Act, section 78A(2), (3) or (4) to section 78A(1) of that Act includes a reference to section 51AN; and
  - (b) a reference in the relevant planning provisions to the assessment manager includes a reference to the entity mentioned in section 51AN(c); and
  - (c) if the change is a minor change for the Planning Act under section 51AM—a reference in the relevant

planning provisions to a referral agency includes a reference to—

- (i) an entity that was, under section 88(a), a nominated assessing authority for a PDA development condition of the PDA development approval, if the condition is a condition of the Planning Act approval; and
  - (ii) another entity prescribed by regulation; and
- (d) the relevant planning provisions apply with any other necessary changes.
- (2) For applying the Planning Act, section 82 to the change application, a reference in section 82(2)(a)(ii) of that Act to the original development application includes a reference to the application for the PDA development approval.
- (3) If the responsible entity for the change application under the Planning Act must, in assessing the application, consider a matter mentioned in section 81(2)(d), (e) or (f) of that Act—
- (a) section 81(4) and (5)(c) of that Act applies for the assessment as if a reference in that section to when the development application for the development approval was properly made were a reference to when the change application was made; and
  - (b) section 81(5)(a) of that Act does not apply for the assessment.
- (4) In this section—
- relevant planning provisions*** means the following provisions—
- (a) the Planning Act, chapter 3, part 5, division 2, subdivision 2 other than section 78A(1) or 82;
  - (b) the Planning Act, chapter 3, part 5, division 2, subdivision 3;
  - (c) the Planning Act, chapter 3, part 6 or 6A;
  - (d) the Planning Act, section 229;

- (e) the Planning Act, schedule 1, section 1, table 1, item 2;
- (f) the development assessment rules under the Planning Act.

### **51AP Cancellation applications under Planning Act for Planning Act approvals**

- (1) For applying the relevant planning provisions to a cancellation application under the Planning Act for the Planning Act approval—
  - (a) a reference in the relevant planning provisions to the assessment manager includes a reference to the entity that would be the prescribed assessment manager for a development application made under the Planning Act—
    - (i) for the development the subject of the Planning Act approval; and
    - (ii) at the time the cancellation application is made; and
  - (b) a reference in the relevant planning provisions to a referral agency includes a reference to—
    - (i) an entity that was, under section 88(a), a nominated assessing authority for a PDA development condition of the PDA development approval, if the condition is a condition of the Planning Act approval; and
    - (ii) another entity prescribed by regulation; and
  - (c) the relevant planning provisions apply with any other necessary changes.
- (2) In this section—

***relevant planning provisions*** means the following provisions—

  - (a) the Planning Act, section 84;
  - (b) the Planning Act, chapter 3, part 6;

- (c) the development assessment rules under the Planning Act.

### **51AQ Other matters about Planning Act approvals**

- (1) Despite the Planning Act, section 119(2), the local government for the local government area to which the Planning Act approval relates must not give an infrastructure charges notice under that Act for the approval.
- (2) However, if a change application or extension application made under the Planning Act is approved for the Planning Act approval, the local government may give an infrastructure charges notice under that Act for the Planning Act approval if the notice relates to the change to, or extension of, the Planning Act approval.
- (3) Despite the Planning Act, section 139(1), a person can not make a conversion application under the Planning Act in relation to a condition of the Planning Act approval that was a PDA development condition of the PDA development approval.
- (4) A regulation may—
  - (a) for the Planning Act, provide that development on former PDA land, or that is former PDA-associated development, is accepted development under that Act if—
    - (i) the Planning Act approval implies the development is to be carried out; and
    - (ii) immediately before the land ceased to be in a priority development area, or the development ceased to be PDA-associated development, the development was PDA accepted development; and
    - (iii) the development complies with any requirements for the development stated in the regulation; or
  - (b) if a condition of the Planning Act approval requires a document or thing to be given to, or approved by,



MEDQ—state the entity the document or thing must be given to, or approved by, in place of MEDQ; or

- (c) make provision about another matter necessary or convenient to give effect to the transition from the PDA development approval to the Planning Act approval for which this Act does not make provision or sufficient provision.

## **Division 4A                      Relationship with South-East Queensland Water (Distribution and Retail Restructuring) Act 2009**

### **51AR Application of division**

This division applies if—

- (a) either—
  - (i) land (the *former PDA land*) ceases to be in a priority development area; or
  - (ii) PDA-associated development (the *former PDA-associated development*) for a priority development area ceases to be PDA-associated development for the area; and
- (b) a PDA development approval—
  - (i) was, immediately before the cessation, in effect for the former PDA land or former PDA-associated development; or
  - (ii) is given under division 4, subdivision 2 for the former PDA land or former PDA-associated development; and
- (c) the PDA development approval involves an aspect (a *water connection aspect*) that—
  - (i) is in relation to a connection under the *South-East Queensland Water (Distribution and Retail*

*Restructuring) Act 2009* for which a water approval is required under that Act; and

- (ii) for a PDA development approval that is prescribed by regulation and was in effect immediately before the cessation—is prescribed by a regulation that commences on or before the cessation.

### **51AS References to cessation**

In this division—

- (a) a reference to cessation in relation to the former PDA land is, if the context permits, a reference to the time the land ceases to be in the priority development area; and
- (b) a reference to cessation in relation to the former PDA-associated development is, if the context permits, a reference to the time the development ceases to be PDA-associated development for the priority development area.

### **51AT Conversion of water connection aspects of PDA development approvals**

- (1) Subsection (2) applies if a water approval is in effect for the land to which the PDA development approval relates—
  - (a) for a PDA development approval that was in effect for the former PDA land or former PDA-associated development immediately before the cessation—immediately before the cessation; or
  - (b) otherwise—immediately before the PDA development approval is given.
- (2) The water connection aspect of the PDA development approval is taken to be part of the water approval.
- (3) If subsection (2) does not apply, the water connection aspect of the PDA development approval continues in effect as a PDA development approval—
  - (a) as if the cessation had not happened; and

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- (b) until the part of the PDA development approval that becomes, under division 4, subdivision 2, a Planning Act approval stops having effect.
  - (4) However, if a water approval is given for the land to which the PDA development approval relates while the water connection aspect is in effect as a PDA development approval under subsection (3), the water connection aspect is taken to be part of the water approval.
  - (5) To remove any doubt, it is declared that this section does not limit or otherwise affect a requirement under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009* for a water approval to be obtained for the making of a connection under that Act.

#### **51AU Provisions about water connection aspects that are taken to be part of water approvals**

- (1) This section applies if the water connection aspect of the PDA development approval is taken to be part of a water approval under section 51AT(2) or (4).
- (2) A PDA development condition of the water connection aspect is taken to be a water approval condition of the water approval under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, even if the condition could not be imposed under that Act.
- (3) Despite the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, chapter 4C, part 4, there is no review or appeal right under that Act in relation to—
  - (a) the part of the water approval that was the water connection aspect; or
  - (b) a decision made under this Act in relation to the part of the water approval that was the water connection aspect.
- (4) To remove any doubt, it is declared that subsection (3) does not limit or otherwise affect—
  - (a) an appeal mentioned in section 51AC(1)(a) or brought under section 51AD; or

- (b) a review or appeal right under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, chapter 4C, part 4, in relation to a decision under section 99BRAK of that Act about a request to amend a water approval condition of the water approval.
- (5) Despite the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 99BRCI(2), a distributor-retailer must not give an infrastructure charges notice under that Act for the part of the water approval that was the water connection aspect.
- (6) However, if the part of the water approval that was the water connection aspect is amended under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 99BRAK, an infrastructure charges notice may be given under that Act in relation to the amendment.
- (7) Despite the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 99BRDE(1), a person can not make a conversion application under that Act in relation to a condition of the water approval that was a PDA development condition.
- (8) A regulation may—
  - (a) if the water connection aspect requires a document or thing to be given to, or approved by, MEDQ—state the entity the document or thing must be given to, or approved by, in place of MEDQ; or
  - (b) make provision about another matter necessary or convenient to give effect to the transition from the water connection aspect of the PDA development approval to the water approval for which this Act does not make provision or sufficient provision.

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## **Division 4B                      Public thoroughfare easements**

### **51AV Registration of public thoroughfare easement under Land Title Act 1994**

- (1) This section applies in relation to an instrument of easement—
  - (a) over freehold land that is in a priority development area or is PDA-associated land for a priority development area; and
  - (b) for a right of way for the public; and
  - (c) in favour of a local government.
- (2) The *Land Title Act 1994*, section 89(6) does not apply in relation to the registration under that Act of the instrument of easement.
- (3) If the instrument of easement may, but for subsection (2), be refused registration under the *Land Title Act 1994*, section 89(6)—
  - (a) the easement created on registration of the instrument is taken to be a public thoroughfare easement under that Act; and
  - (b) section 89(4) of that Act does not apply to the easement.

### **51AW Non-application of particular provisions to land subject to particular public thoroughfare easements**

The provisions of the *City of Brisbane Act 2010*, or the *Local Government Act 2009*, about land subject to a public thoroughfare easement do not apply in relation to freehold land that—

- (a) is in a priority development area or is PDA-associated land for a priority development area; and
- (b) is subject to a public thoroughfare easement registered under the *Land Title Act 1994*, section 89, including

because of the operation of section 51AV of this Act, in favour of a local government.

## **Division 5                      Miscellaneous provisions**

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

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

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

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

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

- (1) The declaration of an area as a priority development area does not affect—
  - (a) the operation of the *City of Brisbane Act 2010* or the *Local Government Act 2009* in relation to the area; or
  - (b) the area of the relevant local government; or
  - (c) the jurisdiction, under the Acts, of the relevant local government.
- (2) However, the performance of the relevant local government's functions or the exercise of its powers under the Acts is subject to MEDQ's functions or powers under this Act.
- (3) A reference in subsection (1) to the declaration of an area as a priority development area includes a reference to the inclusion, under a boundary change regulation, of an additional area in a priority development area.
- (4) Subsection (1) is subject to sections 51AW and 54.

### 54 By-laws

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

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

*Note—*

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

- (7) A by-law prescribed by regulation is taken, for the *Environmental Protection Act 1994*, schedule 1, section 3(a) and (b), to be a local law.

## **Part 3                      Development schemes**

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

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

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

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

- (1) As soon as practicable after the priority development area is declared, MEDQ must make a development scheme, under this division, for the entire priority development area.



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- (2) However, MEDQ may make more than 1 development scheme, under this division, for the priority development area if—
    - (a) more than 1 interim land use plan was made under section 38 for the priority development area; and
    - (b) each development scheme is made for 1 or more parts of the priority development area in which development is regulated by a single interim land use plan; and
    - (c) together, the development schemes provide for the entire priority development area.
  - (3) A development scheme is a statutory instrument.
  - (4) To remove any doubt, it is declared that the development schemes mentioned in subsection (2) may be made at different times.

## **57 Content of development scheme**

- (1) A development scheme may provide for any matter that MEDQ considers will promote the proper and orderly planning, development and management of the relevant area.
- (2) The development scheme must include—
  - (a) a land use plan regulating development in the relevant area; and
  - (b) a plan for infrastructure in the relevant area; and
  - (c) an implementation strategy to achieve the main purpose of this Act for the relevant area, to the extent it is not achieved by the land use plan or the plan for infrastructure.
- (3) Without limiting subsection (2)(a), the land use plan may—
  - (aa) provide for requirements relating to any of the following—
    - (i) the supply of social housing;
    - (ii) the supply of affordable housing;

- (iii) the payment of an amount in lieu of the supply of social housing or affordable housing; or
  - (a) provide for any matter about which a planning instrument may provide for an area; or
  - (b) identify any PDA assessable development or PDA accepted development in the relevant area; or
  - (c) identify development, other than development that is to be carried out entirely within the priority development area, as PDA-associated development for the priority development area; or
  - (d) prohibit the carrying out of particular PDA assessable development; or
  - (e) state that particular development is consistent or inconsistent with the plan; or
  - (f) require public notice of PDA development applications for stated PDA assessable development.
- (4) However, the land use plan may, under subsection (3)(c), identify development as PDA-associated development for the priority development area only if MEDQ is satisfied—
- (a) the Planning Act may have an adverse effect on the delivery of the development if the development were not identified as PDA-associated development for the area; and
  - (b) 1 of the following applies—
    - (i) the development provides development infrastructure for the priority development area to address the impacts of any development within the area, whether or not the development infrastructure also has another function or purpose;
    - (ii) the development—
      - (A) promotes the proper and orderly planning, development and management of the priority development area in accordance with the

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- relevant development instrument for the area; and
- (B) gives effect to the main purpose of this Act in the State or in the region in which the priority development area is located; and
  - (C) can not reasonably be located or accommodated entirely within the priority development area;
- (iii) the development satisfies another requirement prescribed by regulation; and
  - (c) the development does not compromise the implementation of the relevant development instrument for the priority development area.
- (5) If the land use plan identifies development as PDA-associated development for the priority development area, the plan must also—
- (a) identify whether the development is PDA assessable development or PDA accepted development; and
  - (b) include a description of the land on which the development is proposed to be located; and
  - (c) include a description of the development, including plans and supporting documentation.
- (6) Despite subsections (1) and (2), the development scheme is subject to part 4, division 2.
- (7) In this section—
- relevant area***, in relation to a development scheme for a priority development area, means—
- (a) if the scheme applies for the entire priority development area—the priority development area; or
  - (b) otherwise—the part of the priority development area for which the scheme applies.

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

- (1) MEDQ must, as soon as practicable, prepare a proposed development scheme for the entire priority development area, or part of the priority development area, as mentioned in section 56(1) or (2).
- (2) However, before preparing the proposed scheme, MEDQ—
  - (a) must consult, in the way it considers appropriate, with the relevant local government; and
  - (b) must make reasonable endeavours to consult, in the way it considers appropriate, with any of the following MEDQ considers will be likely to be affected by the proposed development scheme—
    - (i) a government entity or GOC;
    - (ii) another person or entity.
- (3) In preparing the proposed development scheme, MEDQ—
  - (a) must consider any relevant State interests including, for example, the objectives of the State in providing social housing for the priority development area or part of the priority development area; and
  - (b) must consider, but is not bound by, a requirement under any of the following relevant to the area the subject of the proposed development scheme—
    - (i) a planning instrument;
    - (ii) assessment benchmarks prescribed by regulation under the Planning Act;
    - (iii) assessment benchmarks made under another Act for the Planning Act.

## **59 Public notification**

After preparing the proposed development scheme, MEDQ must—

- (a) publish the proposed scheme on MEDQ's website; and

- (b) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice—
  - (i) stating that the proposed scheme is published on MEDQ’s website; and
  - (ii) inviting persons to make submissions, within a stated period of at least 30 business days (the *submission period*), about the proposed scheme.

## **60 Submissions on proposed scheme**

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

## **61 Consideration of submissions**

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

## **62 Amendment of proposed scheme**

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

## **63 Making of development scheme**

- (1) MEDQ must, as soon as practicable after complying with sections 61 and 62—
  - (a) make the development scheme; and
  - (b) prepare a report that—

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

*Note—*

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

- (2) MEDQ must publish the report on MEDQ's website.
- (3) Also, MEDQ must—
  - (a) publish, on MEDQ's website, the development scheme made under subsection (1)(a); and
  - (b) publish a gazette notice stating that the development scheme is published on MEDQ's website.

## **64 When development scheme takes effect**

The development scheme takes effect at the beginning of the day the gazette notice under section 63(3)(b) is published.

## **65 Notice of development scheme**

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

- (a) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that—
  - (i) the scheme has been approved; and
  - (ii) it may be inspected on MEDQ's website; and

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- (b) give the relevant local government, and each person who made a submission received within the submission period about the scheme, a notice that—
    - (i) the scheme has been approved; and
    - (ii) MEDQ’s report about the scheme can be inspected on MEDQ’s website.

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

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

MEDQ may amend a development scheme if—

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

*Notes—*

- 1 See also part 3A which provides for the making of a temporary planning instrument that suspends or otherwise affects the operation of a development scheme but does not amend it.
- 2 See also the *Sustainable Ports Development Act 2015*, section 29 for additional requirements for amending a development scheme.

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

- (1) MEDQ may amend a development scheme to change the land use plan for the relevant priority development area in the scheme only if procedures under division 1 for making development schemes have been followed.
- (2) Division 1 applies to the amendment as if—
  - (a) a reference in the division to making a development scheme were a reference to the making of the amendment; and

- (b) a reference in the division to a proposed development scheme were a reference to the proposed amendment; and
  - (c) a reference in section 59(b)(ii) to 30 business days were a reference to 15 business days.
- (3) To remove any doubt, it is declared that an amendment mentioned in subsection (1) may be made even if it is materially detrimental to someone's interests.
- (4) In this section—  
*change*, a land use plan, includes replace the land use plan.

## **68 When amendment takes effect**

An amendment of a development scheme takes effect at the beginning of the day the gazette notice under section 63(3)(b), as applied under section 67(2), is published in relation to the amendment.

## **69 Notice of amendment**

As soon as practicable after an amendment of a development scheme takes effect, MEDQ must publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that—

- (a) the scheme has been amended; and
- (b) the amended scheme is published on MEDQ's website.

## **Division 3 Miscellaneous provisions**

### **71 Development instruments prevail over particular instruments**

- (1) If there is a conflict between a development instrument and any of the following instruments, the development instrument prevails to the extent of the inconsistency—



- (a) a planning instrument;
  - (b) assessment benchmarks prescribed by regulation under the Planning Act;
  - (c) assessment benchmarks made under another Act for the Planning Act.
- (2) In this section—
- development instrument* means—
- (a) a draft provisional land use plan; or
  - (b) a provisional land use plan; or
  - (c) an interim land use plan; or
  - (d) a development scheme.

## Part 3A                      Temporary planning instruments

### 71AA Definitions for part

In this part—

*affected instrument* see section 71AB(1).

*relevant area*, for an affected instrument, means the area in relation to which the affected instrument operates.

*temporary planning instrument* see section 71AB(1).

### 71AB MEDQ may make temporary planning instrument

- (1) This section provides for the making of an instrument (a *temporary planning instrument*) that affects the operation of any of the following (the *affected instrument*) in a stated way—
- (a) a provisional land use plan;
  - (b) an interim land use plan;

- (c) a development scheme.
- (2) MEDQ may make a temporary planning instrument if—
  - (a) MEDQ considers—
    - (i) there is a risk, or potential risk, of serious adverse cultural, economic, environmental or social conditions happening in the relevant area for the affected instrument; or
    - (ii) for an interim land use plan or development scheme—it is necessary or desirable to align the affected instrument with the place renewal framework for a place renewal area in the relevant area; and
  - (b) MEDQ is satisfied it is necessary or desirable to immediately affect the operation of the affected instrument, in the way stated in the temporary planning instrument, for the reason mentioned in paragraph (a)(i) or (ii).
- (3) The temporary planning instrument does not amend or repeal the affected instrument.
- (4) In this section—  
*affect* includes suspend.

### **71AC Publication**

After making a temporary planning instrument, MEDQ must—

- (a) publish the instrument in the gazette and on MEDQ's website; and
- (b) give a copy of the instrument to the relevant local government for the relevant area.

### **71AD Commencement**

A temporary planning instrument commences on the day it is published in the gazette or on any later day of commencement stated in it.

### **71AE Expiry**

A temporary planning instrument expires on the earliest of the following days to occur—

- (a) the day that is 2 years after the day it commences;
- (b) a day of expiry stated in it;
- (c) a day on which the affected instrument expires or is repealed.

### **71AF Repeal**

- (1) A temporary planning instrument may be repealed by an instrument, of the same type as the affected instrument, made under part 2 or 3.
- (2) A provision of an affected instrument may repeal a temporary planning instrument under subsection (1) despite a suspension of the operation of the affected instrument under this part.
- (3) Subsection (1) does not limit the application of the *Acts Interpretation Act 1954*, section 24AA.

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

### **Division 1AA              PDA exemption certificates**

#### **71A      MEDQ may give PDA exemption certificate for particular                  PDA assessable development**

- (1) MEDQ may give a PDA exemption certificate for the carrying out of stated PDA assessable development if any of the following applies—
  - (a) the effects of the development would be minor or inconsequential having regard to the circumstances under which the development was categorised as PDA assessable development;
  - (b) the development was categorised as PDA assessable development only because of particular circumstances that no longer apply;
  - (c) the development was categorised as PDA assessable development because of an error.
- (2) However, subsection (1) does not apply if the development is categorised as PDA assessable development under a regulation.
- (3) In deciding whether to give a PDA exemption certificate under subsection (1), MEDQ must consider any relevant State interest.
- (4) A PDA exemption certificate may be given subject to stated requirements.
- (5) Without limiting subsection (4), a PDA exemption certificate may state a period within which—
  - (a) the PDA assessable development, or a stated part of it, must be completed; or
  - (b) a use that is the natural and ordinary consequence of the PDA assessable development must start; or

- 
- (c) if the PDA assessable development is, or includes, reconfiguring a lot—a plan of subdivision must be given to MEDQ for its approval under section 104.
- (6) To the extent the development does not comply with a requirement stated under subsection (4) or (5), the PDA exemption certificate has no effect.

*Note—*

A person who carries out PDA assessable development without a PDA development permit for the development does not commit an offence against section 73(1) if the development is carried out under a PDA exemption certificate for the development. See section 73(2).

### **71B Notice of PDA exemption certificate**

- (1) This section applies if MEDQ gives a PDA exemption certificate for the carrying out of PDA assessable development.
- (2) MEDQ must give the owner of the land the subject of the PDA exemption certificate a copy of the certificate.
- (3) Also, MEDQ must publish, on MEDQ's website, a notice stating the following—
- (a) that the PDA exemption certificate has been given;
  - (b) a description of the land the subject of the certificate;
  - (c) a description of the PDA assessable development to which the certificate relates, including any requirements imposed under section 71A(4) or (5);
  - (d) the reasons for giving the certificate.

### **71C Duration of PDA exemption certificate**

- (1) A PDA exemption certificate has effect for 2 years after the day it is given or any longer period stated in the certificate.
- (2) Despite the expiry of a PDA exemption certificate, the following development that was started under the certificate may be completed as if the certificate had not expired—

- (a) development that is reconfiguring a lot, if before the certificate expired a plan of subdivision for the development was given to MEDQ for its approval under section 104;
  - (b) development, other than reconfiguring a lot or making a material change of use of premises, if the development was substantially started under the certificate.
- (3) Also, a use that is the natural and ordinary consequence of the development to which the PDA exemption certificate relates is taken to be a lawful use.
- (4) Subsections (2) and (3) are subject to section 71A(6).

#### **71D PDA exemption certificate attaches to land**

A PDA exemption certificate—

- (a) attaches to the land the subject of the certificate; and
- (b) benefits the owner of the land, the owner's successors in title and any occupier of the land.

### **Division 1 PDA development offences**

#### **72 Application of div 1**

This division applies subject to division 2 and section 171J.

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

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

Maximum penalty—4,500 penalty units.

*Note—*

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

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- (2) However, a person does not commit an offence against subsection (1) if the PDA assessable development is carried out under a PDA exemption certificate for the development.
  - (3) Despite subsection (1), the maximum penalty is 17,000 penalty units if the PDA assessable development is—
    - (a) the demolition of a building identified in a relevant development instrument as a building of cultural heritage significance; or
    - (b) on a Queensland heritage place under the *Queensland Heritage Act 1992*.

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

A person must not contravene a PDA development approval.

Maximum penalty—4,500 penalty units.

*Note—*

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

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

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

Maximum penalty—4,500 penalty units.

*Note—*

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

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

### **77            Exemption for particular development approvals and designations under Planning Act**

- (1) This section applies to—
  - (a) a development approval under the Planning Act for development on premises in a priority development area—
    - (i) given for an application mentioned in section 44; or
    - (ii) continued in effect under section 45; and
  - (b) a designation under the Planning Act of premises in, or partly in, a priority development area.
- (2) The carrying out of development or the use of premises under the approval or designation is not a PDA development offence.

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

- (1) This section applies if—
  - (a) a relevant development instrument, or an amendment of a relevant development instrument, takes effect for a priority development area; and
  - (b) immediately before the instrument or amendment took effect, either of the following was a lawful use of premises—
    - (i) a use of premises in the priority development area;
    - (ii) a use of premises as a consequence of a material change of use that was PDA-associated development for the priority development area.
- (2) Neither the relevant development instrument nor the amendment can—



- (a) stop the use from continuing; or
- (b) further regulate the use; or
- (c) require the use to be changed.

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

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

## **80 Amendment of relevant development instrument does not affect existing development approval under Planning Act or PDA development approval**

- (1) This section applies if—
  - (a) a PDA development approval, or a development approval under the Planning Act for premises in a priority development area, is in effect; and
  - (b) after the approval is given, the relevant development instrument for the area is amended.
- (2) To the extent the approval has not lapsed, the amendment does not stop or further regulate the relevant development, or otherwise affect the approval.

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

- (1) A person does not commit a PDA development offence if—
  - (a) the person carries out development or a use of premises because of an emergency endangering—
    - (i) the life or health of a person; or
    - (ii) the structural safety of a building; or
    - (iii) the operation or safety of infrastructure that is not a building; and

- (b) the person gives notice of the development or use that would otherwise be a PDA development offence to MEDQ as soon as practicable after starting the development or use.
- (2) However, subsection (1) does not apply if the person is required by an enforcement order to stop carrying out the development or use.
- (3) In this section—

*emergency* means an event or situation that involves an imminent and definite threat requiring immediate action (whether before, during or after the event or situation), other than routine maintenance due to wear and tear.

*Example of an action not done because of an emergency—*

the carrying out, in winter, of a use or of building or operational work in anticipation of the next cyclone season

## **Division 3                    PDA development applications**

### **Subdivision 1            Making application**

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

- (1) Each PDA development application must—
  - (a) be made to MEDQ in the approved form; and
  - (b) contain, or be accompanied by, the consent of the owner of the relevant land; and
  - (c) be accompanied by the application fee decided by MEDQ.

*Note—*

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

- (2) However, subsection (1)(b) does not apply to the extent the application is for operational work other than operational

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work below the high-water mark and outside the boundaries of a canal.

- (3) The application is a *properly made application* only if—
- (a) it complies with subsection (1); or
  - (b) MEDQ receives and, after considering any noncompliance with subsection (1), accepts the application.

- (4) In this section—

*canal* see the *Coastal Protection and Management Act 1995*, schedule.

*high-water mark* see the *Coastal Protection and Management Act 1995*, schedule.

## **82A Notice of properly made application**

- (1) If a PDA development application is a properly made application, MEDQ must give the applicant a notice stating that—
- (a) the application complies with section 82(1); or
  - (b) MEDQ has accepted the application under section 82(3)(b).
- (2) The notice must state the date (the *properly made date*)—
- (a) for an application mentioned in subsection (1)(a)—the application was made; or
  - (b) for an application mentioned in subsection (1)(b)—MEDQ accepted the application.

## **Subdivision 2 Processing application**

### **82B Application of subdivision**

This subdivision applies in relation to a PDA development application that is a properly made application.

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

- (1) MEDQ may, by notice (an *information request*), ask the applicant to, within a stated period of at least 20 business days, give further stated information relevant to the application that MEDQ needs to decide the application.
- (2) However, an information request can not be made more than 20 business days after the properly made date for the application.
- (3) An information request must include a notice stating that the application will lapse if the applicant fails to give MEDQ any of the stated information within a stated period of at least 6 months after the information request is made.
- (4) If the applicant does not comply with the information request within the stated period or a longer period agreed between the applicant and MEDQ, MEDQ may refuse the application.
- (5) However, MEDQ may refuse the application only if it has given the applicant at least 10 business days notice of its intention to do so.
- (6) The inclusion in an information request of a notice under subsection (3) does not prevent MEDQ refusing the application under subsection (4).

### **83A Lapsing of application—failure to give any requested information**

- (1) This section applies if—
  - (a) an information request has been made in relation to the application; and
  - (b) the applicant fails to give MEDQ any of the requested information within—
    - (i) the period stated in the notice included in the information request under section 83(3); or
    - (ii) a longer period agreed between the applicant and MEDQ.
- (2) The application lapses.

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### **83B Notice of compliance with information request**

- (1) This section applies if—
  - (a) an information request has been made in relation to the application; and
  - (b) MEDQ is satisfied the applicant has complied with the information request within the period mentioned in section 83A(1)(b)(i) or (ii).
- (2) MEDQ must give the applicant a notice stating that—
  - (a) the applicant has complied with the information request; and
  - (b) if section 84 applies for the application—the applicant may start to comply with section 84(2).

### **84 Notice of application**

- (1) This section applies only if—
  - (a) the relevant development instrument for the relevant priority development area requires public notice of any part of the PDA development application; or
  - (b) the relevant development is—
    - (i) PDA-associated development declared for the relevant priority development area by MEDQ under section 40C(1); and
    - (ii) PDA assessable development; or
  - (c) MEDQ, within 20 business days after the properly made date for the application, gives the applicant notice that the applicant must comply with this section.
- (2) The applicant must—
  - (a) publish a notice about the application in a newspaper circulating in the area of the relevant local government; and
  - (b) place the notice on the relevant land in the way prescribed under a regulation; and

- (c) give a copy of the notice to—
  - (i) MEDQ; and
  - (ii) the owners of all land that adjoins the relevant land; and
  - (iii) each entity MEDQ requires the applicant to give a copy to.
- (3) However, if an information request has been made in relation to the application, the applicant must not start to comply with subsection (2) until the applicant has been given a notice under section 83B in relation to the request.
- (4) The notice must—
  - (a) state that—
    - (i) the applicant has made a PDA development application; and
    - (ii) the application may be inspected on MEDQ's website; and
  - (b) describe the relevant land; and
  - (c) generally describe the relevant development; and
  - (d) invite anyone to make submissions to MEDQ about the application within a stated period (the *submission period*); and
  - (e) state that the making of a submission does not give rise to a right of appeal against a decision about the application.
- (5) The submission period—
  - (a) must not start before subsection (2) is complied with; and
  - (b) must be at least 20 business days; and
  - (c) must not include any business day from 20 December in a particular year to 5 January in the following year, both days inclusive.

- (6) A requirement under subsection (2)(c)(iii) may be made only if MEDQ considers the entity has an interest in the outcome of the application.

**84A MEDQ must give notice of requirement to give compliance statement**

- (1) This section applies if the applicant is required to comply with section 84 for the application.
- (2) MEDQ must give the applicant a notice stating that the application will lapse if the applicant does not, within a stated period of at least 40 business days after the notice is given, give MEDQ a compliance statement in relation to the application.
- (3) However, the notice may not be given before—
- (a) if an information request has been made in relation to the application—the applicant is given a notice under section 83B in relation to the request; or
  - (b) otherwise—the end of 20 business days after the properly made date for the application.

**84B Lapsing of application—failure to give compliance statement**

- (1) This section applies if the applicant does not give MEDQ a compliance statement in relation to the application within—
- (a) the period stated in the notice given to the applicant under section 84A(2); or
  - (b) a longer period agreed between the applicant and MEDQ.
- (2) The application lapses.
- (3) Subsection (2) applies whether or not the applicant has complied with section 84 for the application.

**84C MEDQ must decide whether applicant has complied with s 84**

- (1) This section applies if the applicant gives MEDQ a compliance statement in relation to the application within—
  - (a) the period stated in the notice given to the applicant under section 84A(2); or
  - (b) a longer period agreed between the applicant and MEDQ.
- (2) MEDQ must decide whether the applicant has substantially complied with section 84 for the application.
- (3) If MEDQ decides the applicant has not substantially complied with section 84 for the application, it must give the applicant a notice stating—
  - (a) that the applicant has not substantially complied with section 84 for the application; and
  - (b) particulars of the applicant's noncompliance; and
  - (c) that MEDQ may refuse the application if the applicant does not, within a stated period of at least 40 business days after the notice is given—
    - (i) comply with section 84 for the application; and
    - (ii) give MEDQ a further compliance statement in relation to the application; and
  - (d) that for deciding under section 84D(2) whether the applicant has substantially complied with section 84 for the application, an action taken by the applicant to comply with section 84 before the notice is given is taken not to have happened.

*Example—*

An applicant is given a notice under this section stating that the applicant has not substantially complied with section 84 because of a failure to give a notice required under section 84(2)(c)(ii). Although the applicant had taken action to comply with the other requirements of section 84, including publishing a notice under section 84(2)(a), for section 84D(2), the other actions are taken not to have happened. To substantially comply with section 84,



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the applicant must, after receiving the notice under this section, publish a new notice under section 84(2)(a) and substantially comply with the other requirements of section 84.

**84D MEDQ must decide whether applicant given s 84C(3) notice has complied with s 84**

- (1) This section applies if the applicant—
  - (a) has been given a notice under section 84C(3); and
  - (b) gives MEDQ a further compliance statement in relation to the application within—
    - (i) the period stated in the notice; or
    - (ii) a longer period agreed between the applicant and MEDQ.
- (2) MEDQ must decide whether the applicant has substantially complied with section 84 for the application.
- (3) For subsection (2), an action taken by the applicant to comply with section 84 before the notice under section 84C(3) was given is taken not to have happened.

**84E MEDQ may refuse application—failure to give further compliance statement or comply with s 84**

- (1) This section applies if the applicant has been given a notice under section 84C(3) and either of the following applies—
  - (a) the applicant fails, within the relevant period, to give MEDQ a further compliance statement in relation to the application;
  - (b) the applicant gives MEDQ a further compliance statement in relation to the application within the relevant period but MEDQ decides, under section 84D(2), that the applicant has not substantially complied with section 84 for the application.
- (2) MEDQ may refuse the application.

[s 84F]

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- (3) However, MEDQ may refuse the application only if it has given the applicant at least 10 business days notice of its intention to do so.
- (4) In this section—  
*relevant period*, in relation to a notice given under section 84C(3), means—
  - (a) the period stated in the notice; or
  - (b) a longer period agreed between the applicant and MEDQ.

#### **84F Notice of refusal of application**

- (1) If MEDQ decides to refuse the application under section 83(4) or 84E(2), it must, within 5 business days after the decision is made, give the applicant notice of the decision.
- (2) The notice must—
  - (a) be in the approved form; and
  - (b) state that MEDQ has decided to refuse the application; and
  - (c) state the reasons for the decision.

#### **84G Consultation**

In deciding the application—

- (a) MEDQ need not consult with any entity; but
- (b) may consult with any entity in the way it considers appropriate.

#### **85 Deciding application generally**

- (1) MEDQ can not decide the application unless MEDQ is satisfied—

- (a) if an information request has been made in relation to the application—the applicant has been given a notice under section 83B in relation to the request; and
  - (b) if section 84 applies for the application—MEDQ has decided under section 84C(2) or 84D(2) that the applicant has substantially complied with section 84 for the application; and
  - (c) the submission period for the application has ended; and
  - (d) if the relevant development is in a provisional priority development area for which the relevant development instrument is a draft provisional land use plan—
    - (i) the development is categorised under a relevant local categorising instrument as accepted development; or
    - (ii) both of the following apply—
      - (A) the development is categorised under a relevant local categorising instrument as assessable development requiring code assessment;
      - (B) if the development were assessed against the assessment benchmarks applying for the development under the relevant local categorising instrument, it would comply with all the assessment benchmarks.
- (2) Subject to sections 83(4) and 84E(2), MEDQ must decide the application within 40 business days after it is satisfied as mentioned in subsection (1).
- (3) However, a failure to comply with subsection (2) does not prevent MEDQ from deciding the application.
- (4) MEDQ must decide to—
- (a) grant all or part of the PDA development approval applied for; or

- (b) grant all or part of the PDA development approval applied for subject to conditions decided by MEDQ (each a *PDA development condition*); or
  - (c) refuse to grant a PDA development approval.
- (5) To remove any doubt, it is declared that—
- (a) MEDQ may give a PDA preliminary approval even though the applicant sought a PDA development permit; and
  - (b) if MEDQ approves only part of an application, the balance of the application is taken to have been refused.
- (6) In this section—
- relevant local categorising instrument*, in relation to relevant development in a provisional priority development area, means a local categorising instrument within the meaning of the Planning Act that applies for the area to which the application relates.

## 86 Restrictions on granting approval

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

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

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

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

- (A) if a development scheme is in effect for the area when the application is decided—the development scheme; or
  - (B) if a development scheme is not in effect for the area when the application is decided, but there is a proposed development scheme for the area—the interim land use plan for the area and the proposed development scheme; or
  - (C) if a development scheme is not in effect for the area when the application is decided and there is no proposed development scheme for the area—the interim land use plan for the area; and
- (e) any PDA preliminary approval in force for the relevant land; and
  - (f) any preliminary approval under the Planning Act in force for the relevant land; and
  - (g) if the application is for development in a place renewal area—
    - (i) a place renewal framework in effect for the area under part 4A when the application is decided; and
    - (ii) any advice sought by MEDQ in relation to the place renewal framework or the application.
- (2) Also, in deciding an application for development in, or PDA-associated development for, a priority development area other than a provisional priority development area, if—
- (a) there is—
    - (i) a development scheme or interim land use plan for the area; and
    - (ii) a proposed development scheme for the area; and
  - (b) the proposed development scheme was prepared after the development scheme or interim land use plan took effect;

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

- (3) In deciding an application for PDA-associated development for a priority development area, MEDQ may, subject to section 86, give the weight it considers appropriate to any of the following instruments that would, under the Planning Act, have regulated the development if it were not PDA-associated development for the area—
  - (a) a planning instrument that applies to the relevant land;
  - (b) assessment benchmarks for the development prescribed by regulation under the Planning Act;
  - (c) assessment benchmarks for the development made under another Act for the Planning Act.
- (4) Subsection (1)(c) does not prevent MEDQ from considering a submission about the application made to it after the submission period has ended.
- (5) Subsection (6) applies for deciding an application for development in, or PDA-associated development (other than PDA-associated development declared under section 40C(1)) for, a priority development area if—
  - (a) more than 1 development scheme, or more than 1 interim land use plan, is in effect for the area; or
  - (b) 1 or more development schemes and 1 or more interim land use plans are in effect for the area.
- (6) A reference in subsection (1)(d)(ii) or (2) to the development scheme, proposed development scheme or interim land use plan for the priority development area is—
  - (a) for an application for development in the priority development area—a reference to the development scheme, proposed development scheme or interim land use plan that applies or is proposed for the part of the area in which the development is to be carried out; or
  - (b) for an application for PDA-associated development (other than PDA-associated development declared under section 40C(1)) for the priority development area—a

reference to the development scheme, proposed development scheme or interim land use plan that identifies the development as PDA-associated development.

(7) In this section—

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

## **88 PDA development conditions**

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

- (a) nominate a stated entity to be the nominated assessing authority for the condition; or
- (b) relate to infrastructure, and the payment of charges or the surrender of land for infrastructure, for any priority development area; or
- (c) require compliance with an infrastructure agreement that relates to the relevant land; or
- (d) require the making of stated improvements to the relevant land; or
- (e) impose a condition or restriction on a disposal of the relevant land; or
- (f) relate to any of the following for any priority development area—
  - (i) the supply of social housing on the relevant land for the PDA development approval;
  - (ii) the supply of affordable housing on the relevant land for the PDA development approval;
  - (iii) the payment of an amount in lieu of the supply of social housing or affordable housing.



- (2) However, a PDA development condition mentioned in subsection (1)(f) may be imposed only if the relevant development instrument for the priority development area for which the PDA development approval has been granted provides for requirements relating to the condition.

### **88A Use of amounts paid in lieu of supply of social housing or affordable housing**

- (1) This section applies if a PDA development condition of a PDA development approval imposed under section 88(1)(f)(iii) requires the payment of an amount in lieu of the supply of social housing or affordable housing on the relevant land for the PDA development approval.
- (2) The amount may be used by MEDQ for the provision of social housing or affordable housing in the local government area in which the relevant land for the PDA development approval is situated.

### **89 Decision notice**

- (1) MEDQ must, within 5 business days after deciding the application, give notice of the decision (the *decision notice*) to—
  - (a) the applicant; and
  - (b) the relevant local government; and
  - (c) if the decision was to grant a PDA development approval—any nominated assessing authority.
- (2) The decision notice must—
  - (a) be in the approved form; and
  - (b) state the decision; and
  - (c) state any PDA development conditions decided.
- (3) If the decision was to refuse to grant an approval, the decision notice must state the reasons for the refusal.

- (4) If the decision was to grant a PDA development approval, MEDQ must, when giving the decision notice to an entity mentioned in subsection (1), also give the entity a copy of any plans and specifications approved by MEDQ concerning the approval.

## Subdivision 3 Appeals

### 90 Right of appeal against particular conditions

- (1) This section applies if a PDA development condition includes a nominated assessing authority (the *entity*).
- (2) The person who made the relevant PDA development application may appeal to the Planning and Environment Court against MEDQ's decision to impose the condition.
- (3) An appeal under subsection (2) must be started within 20 business days after the day the applicant is given notice of the decision.
- (4) An appellant starts an appeal by lodging, with the registrar of the Planning and Environment Court, a written notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (5) The *Planning and Environment Court Act 2016*, part 5 applies, with necessary changes, to the appeal as if—
  - (a) the appeal were a Planning Act appeal under that Act; and
  - (b) the entity were the only other party to the appeal.
- (6) However—
  - (a) the appellant must, as soon as practicable after giving the entity the notice of appeal, give MEDQ a copy of the notice; and

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

## **Subdivision 4      Miscellaneous provisions**

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

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

### **92      Changing application**

- (1) A PDA development application may be changed by the applicant only if—
  - (a) the applicant has given MEDQ a notice stating details of the proposed change; and
  - (b) MEDQ has agreed in writing to the making of the change.
- (2) The agreement under subsection (1)(b) may be given only if MEDQ is satisfied the change would not result in the relevant development being substantially different.

### 93 Withdrawing application

A PDA development application may be withdrawn by the applicant by notice given to MEDQ at any time before the application is decided.

*Note—*

See section 129A in relation to the refunding and waiving of fees.

## Division 4 PDA development approvals

### 94 Types of PDA development approvals

- (1) A *PDA preliminary approval* is a PDA development approval that—
  - (a) approves development, but does not authorise PDA assessable development to take place; and
  - (b) approves development—
    - (i) to the extent stated in the approval; and
    - (ii) subject to the conditions of the approval.
- (2) A *PDA development permit* is a PDA development approval that authorises the carrying out of PDA assessable development—
  - (a) to the extent provided for under the permit; and
  - (b) subject to—
    - (i) the conditions of the permit; and
    - (ii) any PDA preliminary approval relating to the development the permit authorises, including any conditions of the PDA preliminary approval.
- (3) There is no requirement to get a PDA preliminary approval for development.

*Note—*

PDA preliminary approvals assist in the staging of approvals.

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**95 Duration of approval**

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

**96 Approval attaches to the relevant land**

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

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

- (1) If there is a nominated assessing authority for a PDA development condition imposed on a PDA development approval, the Planning Act, chapter 5, part 3, and any other Act mentioning a development approval under the Planning Act, applies to the condition as if—
  - (a) the PDA development approval were a development approval under the Planning Act; and
  - (b) the nominated assessing authority were an enforcement authority under the Planning Act for development under the PDA development approval; and

- (c) a reference in the Planning Act, chapter 5, part 3, or the other Act, to a development offence under the Planning Act were a reference to a PDA development offence.
- (2) To remove any doubt, it is declared that this section does not limit or otherwise affect MEDQ's ability to apply for an enforcement order or to start a proceeding under this Act relating to the condition.

## 98 Cancellation

- (1) MEDQ may cancel a PDA development approval only if the owner of the relevant land consents in writing to the cancellation.

*Note—*

See section 129A in relation to the refunding and waiving of fees.

- (2) However, MEDQ can not cancel the PDA development approval if the relevant development has substantially commenced.

## 99 Application to change PDA development approval

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

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- (4) Despite subsection (3), section 84(2) to (6) applies for the amendment application only in a circumstance mentioned in section 84(1)(c).

## 100 When approval lapses generally

- (1) This section applies subject to section 102(5) and any extension granted under section 102.
- (2) A PDA development approval lapses at the end of its currency period unless—
- (a) for development that is a material change of use—the change of use happens before the currency period ends; or
  - (b) for development that is reconfiguring a lot—the plan for the reconfiguration of the lot is given to MEDQ for its approval before the currency period ends; or
  - (c) for development not mentioned in paragraph (a) or (b)—development under the approval substantially starts before the currency period ends.
- (3) To the extent the PDA development approval is for development other than a material change of use or reconfiguring a lot, its *currency period* is—
- (a) generally—2 years from the day the approval takes effect (the *day of effect*); or
  - (b) if the approval states a different period—the stated period.
- (4) To the extent the PDA development approval is for development that is a material change of use, its *currency period* is—
- (a) 6 years from the day of effect; or
  - (b) if the approval states a different period—the stated period.

- (5) To the extent the PDA development approval is for development that is reconfiguring a lot, its *currency period* is—
- (a) 4 years from the day of effect; or
  - (b) if the approval states a different period—the stated period.

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

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

### **102 Deciding extension application**

- (1) This section applies if an application for an extension is made under section 101.
- (2) Before granting or refusing the extension, MEDQ must consult with each nominated assessing authority under the PDA development approval.
- (3) MEDQ must grant or refuse the extension within—
  - (a) generally—20 business days after the making of the application; or
  - (b) if, during the 20 business days, MEDQ and the applicant agree on a longer period—the longer period.



- (4) MEDQ must, within 5 business days after making the decision, give notice of the decision to the applicant and each nominated assessing authority under the PDA development approval.
- (5) Despite section 100, the PDA development approval does not lapse until MEDQ has given the applicant the notice under subsection (4).
- (6) If the decision was to refuse the extension, the notice must state the reasons for the refusal.

## **Division 5                      Miscellaneous provisions**

### **103      Use or preservation covenants**

- (1) A use or preservation covenant entered into in connection with a PDA development application is of no effect unless the covenant is required under—
  - (a) a PDA development condition; or
  - (b) an infrastructure agreement.
- (2) If the PDA development condition or infrastructure agreement under which a use or preservation covenant is required is changed in a way that affects rights or responsibilities under the covenant—
  - (a) the covenantee and the covenantor must execute an instrument that amends the covenant to reflect the change; and
  - (b) the covenantor must register the instrument.
- (3) Also, the covenantee under a use or preservation covenant must register an instrument releasing the covenant if—
  - (a) the PDA development condition or infrastructure agreement under which the covenant was required ceases to require the covenant; or

- (b) for a covenant required under a PDA development condition—the PDA development approval that was subject to the condition lapses or otherwise ends; or
- (c) for a covenant required under an infrastructure agreement—the infrastructure agreement lapses or otherwise ends.

(4) In this section—

**register**, an instrument in relation to a use or preservation covenant, means—

- (a) if the covenant is registered under the *Land Act 1994*—register the instrument under that Act; or
- (b) if the covenant is registered under the *Land Title Act 1994*—register the instrument under that Act.

**use or preservation covenant** means a covenant mentioned in the *Land Act 1994*, section 373A(5)(a) or (b) or the *Land Title Act 1994*, section 97A(3)(a) or (b).

## 104 Plans of subdivision

- (1) This section applies to a plan of subdivision if, under another Act, the plan requires MEDQ's approval, in whatever form, before the plan can be registered or otherwise recorded under that Act.
- (2) An application for the approval given to MEDQ must—
  - (a) comply with the requirements prescribed by regulation; and
  - (b) be accompanied by the application fee decided by MEDQ.
- (3) In deciding whether to approve the plan of subdivision, MEDQ must comply with the process prescribed by regulation for approving plans of subdivision.
- (4) In this section—

**authorised electricity entity** means an authorised electricity entity—

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- (a) to which the *Acquisition of Land Act 1967* applies in the circumstances mentioned in the *Electricity Act 1994*, section 116(4); and
  - (b) as defined in section 116(8) of the *Electricity Act 1994*.

**constructing authority** see the *Acquisition of Land Act 1967*, schedule 2.

**plan of subdivision** means a plan or agreement (however described) for reconfiguring a lot—

- (a) unless the reconfiguration relates to—
  - (i) the acquisition of land, including by agreement, under the *Acquisition of Land Act 1967*, by a constructing authority or an authorised electricity entity, for a purpose for which land may be taken under that Act; or
  - (ii) the acquisition of land by agreement, other than under the *Acquisition of Land Act 1967*, by a constructing authority or an authorised electricity entity, for a purpose for which land may be taken under that Act; or
  - (iii) land held by the State, or a statutory body representing the State, that is being reconfigured for a purpose for which land may be taken under the *Acquisition of Land Act 1967*, whether or not the land relates to an acquisition of land; or
  - (iv) the acquisition of land for water infrastructure; or
  - (v) a lot that is, or includes, airport land under the *Airport Assets (Restructuring and Disposal) Act 2008*; or
  - (vi) a lot that is, or includes, strategic port land or Brisbane core port land under the *Transport Infrastructure Act 1994*; or
- (b) other than a plan of survey lodged under the *Acquisition of Land Act 1967*, section 12A as a result of a reconfiguration relating to an acquisition of land mentioned in paragraph (a)(i).

## **Part 4A**                      **Place renewal areas**

### **Division 1**                      **Preliminary**

#### **104AA Definitions for part**

In this part—

*place renewal area* means land declared under section 104AC to be a place renewal area.

*place renewal area declaration* see section 104AC(1).

*place renewal framework*, for a place renewal area, means a place renewal framework that takes effect for the area under section 104AK.

#### **104AB References to particular terms in relation to place renewal areas**

- (1) A reference in this part to the relevant local government, in relation to a place renewal area, is a reference to—
  - (a) the relevant local government for the priority development area to which the place renewal area relates; and
  - (b) if the place renewal area includes land wholly or partly located in the area of another local government—the other local government.
- (2) For this part, a place renewal area relates to a priority development area if—
  - (a) land in the place renewal area is in the priority development area; or
  - (b) land in the place renewal area is PDA-associated land for the priority development area.

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## Division 2                      Declaration of place renewal areas

### 104AC Declaration

- (1) MEDQ may, by instrument (a *place renewal area declaration*), declare land to be a place renewal area if—
  - (a) the land is in a priority development area, other than a provisional priority development area; or
  - (b) the land is PDA-associated land for a priority development area, other than a provisional priority development area.
- (2) A place renewal area declaration may be made only if MEDQ is satisfied that—
  - (a) the planning and development of the proposed place renewal area involves, or is likely to involve, a State interest; and
  - (b) action should be taken under this part to give effect to the State interest.
- (3) For applying subsection (1), more than 1 place renewal area declaration may be made relating to the same priority development area if the declarations relate to different parts of the priority development area or PDA-associated land.
- (4) In making a place renewal area declaration, MEDQ—
  - (a) must consult the relevant local government in the way MEDQ considers appropriate; but
  - (b) need not consult any other person.
- (5) A place renewal area declaration must include the following information—
  - (a) the priority development area in relation to which the declaration is made;
  - (b) a description of the land the subject of the declaration;
  - (c) any other information prescribed by regulation.

### **104AD When place renewal area declaration has effect**

A place renewal area declaration—

- (a) takes effect at the beginning of the day the gazette notice under section 104AE(1)(b) is published; and
- (b) remains in effect until the earliest of the following days—
  - (i) if a place renewal framework for the place renewal area is not made within the period provided under section 104AG(2) and (3)—the day after the last day of the period;
  - (ii) the day the declaration is revoked;

*Note—*

See also section 104AO in relation to revocation of a place renewal area declaration.

- (iii) the day all of the land in the place renewal area ceases to be land in a priority development area or PDA-associated land.

### **104AE MEDQ must give notice of place renewal area declaration**

- (1) After making a place renewal area declaration, MEDQ must—
  - (a) publish the declaration on MEDQ's website; and
  - (b) publish a gazette notice stating that the declaration has taken effect and is published on MEDQ's website.
- (2) As soon as practicable after a place renewal area declaration takes effect, MEDQ must—
  - (a) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating that the declaration has taken effect and is published on MEDQ's website; and
  - (b) give the relevant local government a notice stating that the declaration has taken effect.

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## **Division 3                      Amendment of place renewal area declarations**

### **104AF Amendment of place renewal area declaration—boundary change affecting priority development area**

- (1) This section applies if—
  - (a) a place renewal area declaration is in effect in relation to a priority development area; and
  - (b) the declaration regulation for the priority development area is amended under section 37 or part 2, division 2B to exclude land from the priority development area; and
  - (c) the place renewal area includes all or part of the land excluded from the priority development area.

*Note—*

See section 104AD(b)(iii) in relation to a place renewal area ceasing to have effect if all of the land in the area ceases to be land in a priority development area or PDA-associated land.

- (2) The place renewal area declaration is amended to exclude, from the description of the land the subject of the declaration, any land that is excluded from the priority development area.
- (3) The amendment of the place renewal area declaration under subsection (2) takes effect on the commencement of the amendment of the declaration regulation.
- (4) As soon as practicable after the amendment of the declaration regulation commences, MEDQ must—
  - (a) publish the place renewal area declaration, as amended under subsection (2), on MEDQ’s website; and
  - (b) publish a gazette notice stating the amended description of the land the subject of the declaration.

*Note—*

See also section 104AO in relation to MEDQ’s power to amend or revoke a place renewal area declaration.

## **Division 4                    Place renewal frameworks**

### **104AG Place renewal framework required**

- (1) MEDQ must, by instrument, make a place renewal framework for a place renewal area within the period mentioned in subsections (2) and (3).
- (2) The place renewal framework must be made within the period—
  - (a) starting on the day (the *declaration day*) the place renewal area declaration is made for the place renewal area; and
  - (b) ending on—
    - (i) the day that is 12 months after the declaration day; or
    - (ii) if MEDQ publishes, within the 12-month period mentioned in subparagraph (i), a notice on its website stating that the period is extended by a further 6 months—the day that is 18 months after the declaration day.
- (3) However, if a caretaker period begins at any time before the day mentioned in subsection (2)(b), the period within which the framework must be made is extended by the number of days equal to the length of the caretaker period plus 20 business days.
- (4) For working out the length of a caretaker period for subsection (3), the day the caretaker period ends is taken to be a whole day.
- (5) The place renewal framework is a statutory instrument.

### **104AH Content of place renewal framework**

- (1) The place renewal framework for the place renewal area must—



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- (a) state the vision, objectives and outcomes for the place renewal area; and
  - (b) include an implementation plan to achieve the vision, objectives and outcomes for the area.
- (2) The vision, objectives and outcomes stated in the place renewal framework must be consistent with the main purpose of this Act.
- (3) The place renewal framework may identify actions that MEDQ proposes to take under this Act to achieve the vision, objectives and outcomes for the place renewal area.

#### **104AI Requirement to consult before making place renewal framework**

Before making the place renewal framework, MEDQ must consult, in the way it considers appropriate, with—

- (a) the relevant local government; and
- (b) any of the following entities MEDQ considers are likely to be affected by the proposed place renewal framework—
  - (i) a government entity or GOC;
  - (ii) another person or entity.

#### **104AJ MEDQ must give notice of place renewal framework**

- (1) After making the place renewal framework, MEDQ must—
- (a) publish the framework on MEDQ's website; and
  - (b) publish a gazette notice stating that the framework is published on MEDQ's website.
- (2) As soon as practicable after the place renewal framework takes effect, MEDQ must—
- (a) publish, at least once in a newspaper circulating in the area of the relevant local government, a notice stating

that the framework has taken effect and is published on MEDQ's website; and

- (b) give the relevant local government a notice stating that the framework has taken effect.

### **104AK When place renewal framework takes effect**

The place renewal framework takes effect at the beginning of the day the gazette notice under section 104AJ(1)(b) is published or on any later day stated in the framework.

### **104AL Period for which place renewal framework has effect**

The place renewal framework has effect until the place renewal area declaration for the place renewal area stops having effect under section 104AD.

## **Division 5                      Other provisions**

### **104AM Particular entities to give information or assistance to MEDQ**

- (1) This section applies in relation to each of the following entities—
  - (a) a distributor-retailer;
  - (b) a government entity;
  - (c) a local government.
- (2) It is the duty of the entity to give MEDQ the information or assistance MEDQ reasonably requires to make or implement a place renewal framework.
- (3) Without limiting subsection (2), MEDQ may give the entity a written direction requiring the entity to give MEDQ stated information or assistance MEDQ reasonably requires to perform its functions, or exercise its powers, in relation to a place renewal framework.

- (4) The entity must do everything reasonably necessary to comply with the direction.
- (5) This section does not limit section 126A, 127 or 128.
- (6) In this section—  
*assistance* does not include the provision of funds or other assets to MEDQ.  
*information* includes a document.

### **104AN Consultation**

- (1) In performing a function or exercising a power under this part, MEDQ—
  - (a) need not consult any entity; but
  - (b) may consult any entity in the way MEDQ considers appropriate.
- (2) Subsection (1)(a) applies subject to a requirement to consult a particular entity that is expressly provided for under this part.

### **104AO MEDQ's power to amend or revoke place renewal instruments**

Nothing in this part limits the application of the *Acts Interpretation Act 1954*, section 24AA for—

- (a) amending or revoking a place renewal area declaration;  
or
- (b) amending a place renewal framework.

## **Part 5    Enforcement notices, enforcement orders and other court orders**

### **Division 1AA                                  Enforcement notices**

#### **104A    Application of Planning Act provisions for enforcement notices**

- (1) The Planning Act, chapter 5, part 3 applies in relation to a PDA development offence, with necessary changes, as if—
  - (a) a reference in the part to an enforcement authority were a reference to MEDQ; and
  - (b) a reference in the part to a development offence were a reference to a PDA development offence; and
  - (c) a reference in the part to a development permit were a reference to a PDA development permit; and
  - (d) a reference in the part to accepted development were a reference to PDA accepted development; and
  - (e) the reference in the part to a development approval were a reference to a PDA development approval; and
  - (f) the reference in section 172(c) of that Act to appealing the decision on the application were a reference to appealing the decision on the application to grant the PDA development permit subject to a PDA development condition that includes a nominated assessing authority for the condition.
  
- (2) Also, the Planning Act, section 229 and schedule 1 apply in relation to a decision to give an enforcement notice under chapter 5, part 3 of that Act, as applied under subsection (1) and, for that purpose, schedule 1 applies as if a reference in the schedule to the enforcement authority were a reference to MEDQ.

- (3) To remove any doubt, it is declared that this section does not limit or otherwise affect MEDQ's ability to apply for an enforcement order, or to take any other action under this Act, in relation to the PDA development offence.

## **Division 1                      Enforcement orders**

### **105      Starting proceeding for enforcement order**

- (1) MEDQ may start a proceeding in the Planning and Environment Court—
  - (a) for an enforcement order to remedy or restrain the commission of a PDA development offence; or
  - (b) if MEDQ has started a proceeding under this section for an enforcement order and the court has not decided the proceeding—for an order under section 106.
- (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 commission of the offence.

### **106      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 MEDQ to give an undertaking about damages.

### **107      Making enforcement order**

- (1) The Planning and Environment Court may make an enforcement order if the court is satisfied the relevant offence—
  - (a) is being, or has been, committed; or

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

## **108 Effect of enforcement order**

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

(5) In this section—

**clearing**, of vegetation—

- (a) means removing, cutting down, ringbarking, pushing over, poisoning or destroying it in any way, including by burning, flooding or draining; but
- (b) does not include lopping a tree or the destruction of standing vegetation by stock.

**root zone**, of a tree or plant, means—

- (a) the roots of the tree or plant, including any buttress roots; or
- (b) the soil in or on which the roots are situated—
  - (i) of an area measured by extending horizontally in all directions from the base of the trunk of the tree or plant to the points that are vertically below the ends of its outermost branches; and
  - (ii) to a depth of 1m below the surface of the soil.

**vegetation**—

- (a) means a tree or plant, whether living or dead; and
- (b) includes—
  - (i) the regrowth of a tree or plant; and
  - (ii) the root zone of a tree or plant.

## 109 Powers about enforcement orders

- (1) The Planning and Environment Court's power to make an enforcement order to stop, or not to start, an activity may be exercised—
  - (a) whether or not it appears to the court that the person against whom the order is made (the **relevant person**) intends to engage again, or to continue to engage again, in the activity; and
  - (b) whether or not the relevant person has previously engaged in an activity of the same type; and

- (c) whether or not there is danger of substantial damage to property or the environment or injury to another person if the relevant person engages, or continues to engage, in the activity.
- (2) The court's power to make an enforcement order to do anything may be exercised—
  - (a) whether or not it appears to the court that the person against whom the order is made (also the *relevant person*) intends to fail, or to continue to fail, to do the thing; and
  - (b) whether or not the relevant person has previously failed to do a thing of the same type; and
  - (c) whether or not there is danger of substantial damage to property or the environment or injury to another person if the relevant person fails, or continues to fail, to do the thing.
- (3) The court may cancel or change an enforcement order on the application of MEDQ or the person against whom the order is made.
- (4) The court's powers under this section are in addition to, and do not limit, its other powers.

*Note—*

For costs, see the *Planning and Environment Court Act 2016*, part 6.

- (5) In this section—  
*environment* see the *Environmental Protection Act 1994*, section 8.

## 110 Offence to contravene enforcement order

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

Maximum penalty—4,500 penalty units or 2 years imprisonment.



*Note—*

See also—

- (a) section 164 in relation to the liability of an executive officer of a corporation for an offence against this section committed by the corporation; and
- (b) the *Planning and Environment Court Act 2016*, section 36.

## **Division 2                      Magistrates Court orders**

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

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

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

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

Maximum penalty—4,500 penalty units or 2 years imprisonment.

*Note—*

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

### **112A Order for compensation**

- (1) This section applies if a Magistrates Court—
  - (a) convicts a defendant of a PDA development offence; and
  - (b) finds that, because of the offence, another person has—
    - (i) suffered loss of income; or
    - (ii) suffered a reduction in the value of, or damage to, property; or
    - (iii) incurred expenses to replace or repair property or prevent or minimise, or attempt to prevent or minimise, the loss, reduction or damage.
- (2) The Magistrates Court may order the defendant to pay the other person compensation for the loss, reduction or damage suffered or the expenses incurred.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **112B Order for investigation expenses**

- (1) This section applies if—
  - (a) a Magistrates Court—
    - (i) convicts a defendant of a PDA development offence; and

- 
- (ii) finds that MEDQ has reasonably incurred expenses in taking a sample or conducting an inspection, test, measurement or analysis during the investigation of the offence; and
  - (b) MEDQ applies for an order for the payment of the expenses.
- (2) The Magistrates Court may order the defendant to pay MEDQ a reasonable amount for the expenses if the court considers it would be just to do so in the circumstances.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

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

#### **113      MEDQ may remedy noncompliance with particular orders**

- (1) This section applies if a person against whom an enforcement order, or an order under section 111, has been made does not comply with the order within the period stated in the order.
- (2) MEDQ may—
  - (a) take the action required under the order; and
  - (b) recover the reasonable costs of taking the action as a debt owing by the person to MEDQ.

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

- (1) MEDQ may bring a proceeding in the Planning and Environment Court for a declaration about—
  - (a) a matter done, to be done or that should have been done for this chapter or the repealed ULDA Act; or
  - (b) the construction of this chapter or the repealed ULDA Act; or

- (c) the lawfulness of land use or development relating to a priority development area.
- (2) The court may make an order about a declaration made under subsection (1).
- (3) Subsection (4) applies to a proceeding mentioned in subsection (1) if the land to which the proceeding relates ceases to be in, or to be PDA-associated land for, a priority development area.
- (4) To remove any doubt, it is declared that the proceeding is not affected only because the land has ceased to be in, or to be PDA-associated land for, a priority development area.

## **Part 6 Particular charges**

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

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

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

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- (2) The special rate or charge may be made and levied on the bases MEDQ considers appropriate.

*Note—*

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

- (3) MEDQ may fix a minimum amount of the special rate or charge.
- (4) Without limiting subsection (2), the amount of the special rate or charge may vary according to the extent to which, in MEDQ's opinion—
- (a) the land, or the owner or occupier of the land, has or will specially benefit from, or has or will have special access to, the service, facility or activity; or
  - (b) the owner or occupier of the land, or the use made or to be made of the land, has, or will, specially contribute to the need for the service, facility or activity.
- (5) MEDQ's instrument making the special rate or charge must identify—
- (a) the rateable land to which the rate or charge applies; and
  - (b) the overall plan for the supply of the service, facility or activity.
- (6) The overall plan must—
- (a) be adopted by MEDQ either before, or at the same time as, MEDQ first makes the special rate or charge; and
  - (b) identify the rateable land to which the rate or charge applies; and
  - (c) describe the service, facility or activity; and
  - (d) state the estimated cost of implementing the overall plan; and
  - (e) state the estimated time for implementing the overall plan.
- (7) MEDQ may identify parcels of rateable land to which the rate or charge applies in any way MEDQ considers appropriate.

- (8) Subsection (1) is taken to have been complied with if the special rate or charge is made and levied on—
- (a) all rateable land that, at the time of making and levying the rate or charge, could reasonably be identified as land on which the rate or charge may be made and levied; or
  - (b) all rateable land on which the rate or charge may be made and levied, other than land accidentally omitted.

## 116 Application of special rate or charge

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

## Division 2 Infrastructure expenses recoupment charges

### 116A Definitions for div 2

In this division—

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

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

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

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## 116B Making and levying charge

- (1) Subsection (2) applies if MEDQ incurs, or reasonably expects to incur, an expense for the provision of infrastructure in relation to land in a charge area.
- (2) MEDQ may, by instrument (the *authorising instrument*), make and levy on owners of rateable land in the charge area a charge (an *infrastructure expenses recoupment charge*) on the rateable land to recoup, or provide for payment of, the expense.
- (3) However, subsection (2) does not apply if—
  - (a) the infrastructure is a facility or service for which a special rate or charge has been made and levied; or
  - (b) the expense is recouped or provision is made for payment of the expense, other than by levying the charge.
- (4) Subsection (2) is taken to have been complied with if the charge is made and levied on—
  - (a) all rateable land that, at the time of making and levying the charge, could reasonably be identified as land on which the charge may be made and levied; or
  - (b) all rateable land on which the charge may be made and levied, other than land accidentally omitted.
- (5) To remove any doubt, it is declared that subsection (2) applies even if MEDQ incurred, or reasonably expected to incur, the expense for the provision of infrastructure in relation to the land before the land was in a charge area.

## 116C Requirements for authorising instrument

- (1) The authorising instrument for an infrastructure expenses recoupment charge must—
  - (a) identify—
    - (i) the charge area to which the charge relates; and
    - (ii) the rateable land to which the charge applies; and

- (iii) the overall plan for the provision of the infrastructure to which the charge relates; and
  - (b) state—
    - (i) the amount of the charge for the residential land in the charge area; and
    - (ii) the way the amount of the charge for the non-residential land in the charge area is worked out; and
    - (iii) the rate, by reference to a stated index that is relevant to the estimated cost of the provision of infrastructure, by which the amount of the charge can be increased; and
    - (iv) the intervals at which the amount of the charge can be increased.
- (2) The overall plan must—
  - (a) describe the infrastructure to which the charge relates; and
  - (b) state the estimated expenses and time for the provision of the infrastructure.
- (3) MEDQ may identify parcels of rateable land to which the charge applies in any way MEDQ considers appropriate.
- (4) In this section—
  - non-residential land* means rateable land other than residential land.
  - residential land* means rateable land for which a residential use under a development scheme is provided.

## 116D Basis and amount of charge

- (1) An infrastructure expenses recoupment charge may be made and levied on the bases MEDQ considers appropriate.

*Note—*

See also section 117 in relation to the recovery of the charge.



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- (2) Without limiting subsection (1), MEDQ may—
    - (a) fix a minimum amount of the charge; or
    - (b) decide whether a discount for payment of the charge applies and the amount and terms of any discount.
  - (3) However, an infrastructure expenses recoupment charge may be increased by no more than the rate, and only at the intervals, stated in the authorising instrument for the charge.

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

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

- (5) However, to remove any doubt, it is declared that subsections (3)(b) and (4) do not authorise the superseding public sector entity to make and levy an infrastructure expenses recoupment charge to recoup or provide for an expense, other than for the provision of the planned infrastructure.

## Division 3                      Recovery of relevant charges

### 116F    Definitions for div 3

In this division—

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

*charging entity* means—

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

*relevant charge* means—

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

### 116G    Charge notice

- (1) The charging entity must give the owner of each parcel of rateable land on which a relevant charge is levied notice of the charge (a *charge notice*).
- (2) The charge notice must state—
- (a) the rateable land and the relevant charge; and
- (b) the amount of the charge payable; and
- (c) the due date for payment of the charge; and
- (d) if a discount for the charge applies—

- 
- (i) the terms of the discount; and
  - (ii) the last day of the discount period; and
  - (e) the ways in which the charge may be paid.
- (3) The charge notice may form part of another notice given by the charging entity to the owner of the land.

*Example of another notice given by a charging entity—*  
a rate notice given by a local government

## **117 Recovery of relevant charge**

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

- (ii) if the charging entity is a superseding public sector entity—the chief executive or chief executive officer of the entity.
- (6) For land on which a special rate or charge is levied, a reference in subsection (1), (2) or (3) to the owner of the land includes a reference to the occupier of the land.
- (7) In this section—
  - local government overdue rates or charges provisions* means—
    - (a) for land outside the City of Brisbane—the following provisions—
      - (i) the *Local Government Act 2009*, section 95;
      - (ii) each provision of a regulation made under the *Local Government Act 2009*, section 96; or
    - (b) for land in the City of Brisbane—the following provisions—
      - (i) the *City of Brisbane Act 2010*, section 97;
      - (ii) each provision of a regulation made under the *City of Brisbane Act 2010*, section 98.

## **Division 4                      Remission of amounts paid for    infrastructure charges**

### **117A    Definitions for division**

In this division—

*change*, to a development approval, does not include a minor change.

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

*infrastructure charges notice*—

- (a) for a development approval, means an infrastructure charges notice under the Planning Act; or
- (b) for a water approval, means an infrastructure charges notice under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

**minor change** see the Planning Act, schedule 2.

**relevant approval** see section 117C.

**relevant infrastructure amount** see section 117B.

**trunk infrastructure**—

- (a) in relation to a development approval—see the Planning Act, schedule 2; or
- (b) in relation to a water approval—see the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, schedule.

## 117B Relevant infrastructure amounts

A **relevant infrastructure amount** is an amount paid or payable to a local government or distributor-retailer—

- (a) under a relevant approval, in relation to trunk infrastructure; or
- (b) under an infrastructure charges notice given for a relevant approval.

## 117C Relevant approvals

- (1) A development approval or water approval given for premises is a **relevant approval** if—
  - (a) the premises are on land in a priority development area; and
  - (b) the approval is given after—
    - (i) the day the priority development area is declared; or

- (ii) the day the land becomes part of the priority development area, if that happens after the priority development area is declared.
- (2) A development approval or water approval given for premises is also a **relevant approval** if—
  - (a) the premises are on land in a priority development area (whether the priority development area is declared, or the land becomes part of the priority development area, before or after the approval is given); and
  - (b) the approval is changed or amended after—
    - (i) the day the priority development area is declared; or
    - (ii) the day the land becomes part of the priority development area, if that happens after the priority development area is declared.

*Note—*

See sections 44, 45, 247 and 248 for when a development approval under the Planning Act may or may not be changed after a priority development area is declared.

### **117D MEDQ may require information about relevant infrastructure amounts**

- (1) MEDQ may, by notice given to a local government or distributor-retailer, ask for particulars about relevant infrastructure amounts paid or payable to the local government or distributor-retailer.
- (2) The local government or distributor-retailer must comply with the notice.

### **117E MEDQ may require remission of relevant infrastructure amounts**

- (1) This section applies if MEDQ is satisfied a relevant infrastructure amount may be used for the supply of infrastructure for the priority development area or

PDA-associated land to address the impacts of development in the area or on the land (whether or not the infrastructure also has another function or purpose).

- (2) MEDQ may, by notice given to the local government or distributor-retailer to whom the relevant infrastructure amount has been paid or is payable, require the local government or distributor-retailer to remit the amount to MEDQ.
- (3) However, the amount that must be remitted to MEDQ under the notice does not include any part of the relevant infrastructure amount that is an excluded amount under subsection (4).
- (4) For subsection (3), an amount paid to the local government or distributor-retailer in relation to an approval is an *excluded amount* if—
  - (a) the approval was given before—
    - (i) the day the priority development area was declared; or
    - (ii) the day the land became part of the priority development area, if that happened after the priority development area is declared; and
  - (b) the approval was changed or amended after the day mentioned in paragraph (a)(i) or (ii); and
  - (c) the amount was paid to the local government or distributor-retailer before the approval was changed or amended.
- (5) An amount that the local government or distributor-retailer is required to remit to MEDQ under the notice may be recovered as a debt owed to MEDQ by the local government or distributor-retailer.

## **Part 7**                      **Infrastructure agreements relating to priority development areas**

### **118 Application of pt 7**

This part applies to an infrastructure agreement to which MEDQ is a party if it relates to land that is or was—

- (a) in a priority development area; or
- (b) PDA-associated land for a priority development area.

### **119 Exercise of discretion unaffected by infrastructure agreements**

The infrastructure agreement is not invalid merely because its fulfilment depends on the exercise of a discretion by MEDQ about—

- (a) a draft provisional land use plan or provisional land use plan for a provisional priority development area; or
- (b) an interim land use plan or development scheme for another priority development area; or
- (c) an existing or future PDA development application.

### **120 When infrastructure agreements under Planning Act apply instead of particular approvals**

- (1) This section applies if the infrastructure agreement is made under the Planning Act.
- (2) The infrastructure agreement applies instead of a PDA development approval to the extent of any inconsistency.
- (3) Subsections (4) and (5) apply if—
  - (a) land to which the infrastructure agreement relates ceases to be in, or to be PDA-associated land for, a priority development area; and



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- (b) part of a PDA development approval for the land becomes a Planning Act approval or part of a water approval.
  - (4) Despite the Planning Act, section 157(2), the infrastructure agreement applies instead of the Planning Act approval under section 157(1) of that Act, even if the chief executive of the department in which that Act is administered has not approved the agreement.
  - (5) If the infrastructure agreement is made before the cessation, the agreement applies instead of the part of the water approval to the extent of any inconsistency.
  - (6) To remove any doubt, it is declared that subsections (4) and (5) apply whether or not the infrastructure agreement is amended before or after the cessation.

#### **120A When water infrastructure agreements apply instead of particular approvals**

- (1) This section applies if the infrastructure agreement is a water infrastructure agreement.
- (2) If the water infrastructure agreement is made on or after the commencement, the agreement applies instead of a PDA development approval to the extent of any inconsistency.
- (3) Subsection (4) applies if—
  - (a) land to which the water infrastructure agreement relates ceases to be in, or to be PDA-associated land for, a priority development area; and
  - (b) part of a PDA development approval for the land becomes part of a water approval.
- (4) Despite the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, section 99BRDO, the water infrastructure agreement prevails over the part of the water approval to the extent of any inconsistency only if the agreement is made on or after the commencement.

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

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

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

- (1) This section applies if a proposed infrastructure agreement would, if entered into, likely continue to apply in relation to land after the land ceases to be in, or to be PDA-associated land for, a priority development area.
- (2) Before entering into the proposed infrastructure agreement, MEDQ must consult about the terms of the agreement with the entities MEDQ considers will be superseding public sector entities for infrastructure the subject of the agreement.

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## Part 7A                      Housing agreements relating to    priority development areas

### 122AA Application of part

- (1) This part applies if a PDA development condition of a PDA development approval is imposed under section 88(1)(f)(iii) that requires the payment of an amount in lieu of the supply of social housing or affordable housing on the relevant land for the PDA development approval.
- (2) MEDQ may enter into an agreement (a *housing agreement*) with an entity to waive payment of the amount in exchange for the supply of social housing or affordable housing on—
  - (a) the relevant land for the PDA development approval; or
  - (b) land other than the relevant land for the PDA development approval.
- (3) To remove any doubt, it is declared that the land mentioned in subsection (2)(b) may be located in or out of the priority development area the subject of the PDA development approval.

### 122AB Obligation to negotiate in good faith

- (1) This section applies if—
  - (a) MEDQ proposes to another entity that they enter into a housing agreement; or
  - (b) another entity proposes to MEDQ that they enter into a housing agreement.
- (2) The entity (the *recipient*) to whom the proposal is made must, in writing, tell the entity making the proposal if the recipient agrees to entering into negotiations for a housing agreement.
- (3) When negotiating a housing agreement, the entities must act in good faith.

*Examples of actions that subsection (3) requires—*

- disclosing to the other party to the negotiations in a timely way information relevant to entering into the proposed agreement
- considering and responding in a timely way to the other party's proposals about the proposed agreement
- giving reasons for each response

### **122AC Content of housing agreement**

- (1) A housing agreement must—
  - (a) if responsibilities under the agreement would be affected by a change in the ownership of premises that are the subject of the agreement—include a statement about how the responsibilities must be fulfilled in that event; and
  - (b) if the fulfilment of responsibilities under the agreement depends on development entitlements that may be affected by a planning change—include a statement about—
    - (i) refunding or reimbursing amounts paid under the agreement; and
    - (ii) changing or cancelling the responsibilities if the development entitlements are changed without the consent of the person required to fulfil the responsibilities; and
  - (c) include any other matter prescribed by regulation.
- (2) A housing agreement may require the provision of security to MEDQ to secure compliance with the agreement.

### **122AD Copy of housing agreement must be given to local government**

If MEDQ enters into a housing agreement for a priority development area situated in a local government area, MEDQ must give a copy of the agreement to the local government for the area.

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### **122AE When housing agreement binds successors in title**

- (1) This section applies if the owner of relevant land for a PDA development approval to which a housing agreement relates—
  - (a) is a party to the agreement; or
  - (b) consents to the responsibilities under the agreement being attached to the relevant land.
- (2) The responsibilities under the housing agreement attach to the relevant land and bind the owner of the relevant land and the owner's successors in title.
- (3) If the owner's consent under subsection (1)(b) is given but not endorsed on the agreement, the owner must give a copy of the document evidencing the owner's consent to the local government for the relevant land to which the consent applies.
- (4) Despite subsection (3), subsections (5) and (6) apply if—
  - (a) the housing agreement states that if the relevant land is subdivided, part of the relevant land is to be released from the responsibilities; and
  - (b) the relevant land is subdivided.
- (5) The part is released from the responsibilities.
- (6) The responsibilities are no longer binding on the owner of the part.

### **122AF Exercise of discretion unaffected by housing agreement**

A housing agreement is not invalid merely because its fulfilment depends on the exercise of a discretion by a public sector entity about an existing or future PDA development application.

### **122AG Housing agreement applies instead of PDA development condition requiring payment of amount**

- (1) This section applies if MEDQ enters into a housing agreement with an entity to waive the payment of an amount required under a PDA development condition of a PDA development

approval imposed under section 88(1)(f)(iii) in exchange for the supply of social housing or affordable housing on—

- (a) the relevant land for the PDA development approval; or
  - (b) land other than the relevant land for the PDA development approval.
- (2) To the extent of any inconsistency, the housing agreement applies instead of the PDA development condition.
- (3) Subsections (4), (5) and (6) apply if—
- (a) the relevant land for the PDA development approval ceases to be in, or to be PDA-associated land for, a priority development area; and
  - (b) the PDA development condition becomes a condition of a Planning Act approval under chapter 3, part 2, division 4, subdivision 2, even if, as mentioned in section 51AI, the condition could not be imposed under the Planning Act (the *transitional payment condition*).
- (4) The housing agreement—
- (a) continues to have effect according to the terms of the housing agreement; and
  - (b) MEDQ continues to be a party to the housing agreement; and
  - (c) MEDQ's rights and responsibilities under the housing agreement continue; and
  - (d) to the extent of any inconsistency, the housing agreement applies instead of the transitional payment condition.
- (5) Subsection (4) applies even if the terms of the housing agreement could not be imposed under the Planning Act and the housing agreement could not be entered into under the Planning Act.
- (6) If the housing agreement is terminated or of no effect, any amount required to be paid under the transitional payment condition is payable to MEDQ as a debt.



- (a) land in, or a structure on, a priority development area or a lot adjoining the priority development area; or
  - (b) land or a structure the subject of PDA-associated development for a priority development area or a lot adjoining the land or structure.
- (2) The local government entry powers provisions apply to MEDQ and each authorised employee or agent of MEDQ as if—
- (a) MEDQ were a local government; and
  - (b) the authorised employee or agent were an employee or agent of a local government; and
  - (c) a reference to the local government were a reference to MEDQ; and
  - (d) a reference to an employee or agent of the local government were a reference to an authorised employee or agent of MEDQ; and
  - (e) a reference in the sections to any of the following were a reference to the performance of MEDQ’s functions or the exercise of its powers—
    - (i) the exercise of the jurisdiction of local government;
    - (ii) the exercise of a power under a local government Act;
    - (iii) the exercise of the local government’s jurisdiction;
    - (iv) local government purposes; and
  - (f) a reference to the local government’s facilities on the land were a reference to MEDQ’s facilities on the land.
- (3) However, if the occupier of the land or structure is present at the place, before entering the place, an authorised employee or agent of MEDQ must do, or make a reasonable attempt to do, the following things—
- (a) identify himself or herself to the occupier, by complying with section 31;



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- (b) tell the occupier the purpose of the entry;
  - (c) seek the consent of the occupier to the entry;
  - (d) tell the occupier the employee or agent is permitted under this Act to enter the place without the occupier's consent.
- (4) If the occupier is not present, the employee or agent must take reasonable steps to advise the occupier of the employee's or agent's intention to enter the place.
- (5) Subsections (3) and (4) do not require the employee or agent to take a step that the employee or agent reasonably believes may frustrate or otherwise hinder the purposes of the entry.
- (6) In this section—

*authorised employee or agent*, of MEDQ, means an EDQ employee or MEDQ agent whom MEDQ authorises to exercise powers under this section.

*local government entry powers provisions* means—

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

*lot* see the Planning Act, schedule 2.

### **123A Powers to remedy contravention of enforcement notice**

- (1) This section applies if a person fails to comply with an enforcement notice given to the person by MEDQ under the Planning Act, chapter 5, part 3 as applied by section 104A.
- (2) An authorised employee or agent may—
  - (a) enter the relevant land without the permission of the occupier; and
  - (b) take the action that is required under the enforcement notice.

- (3) At least 7 days before entering the relevant land, the authorised employee or agent (or another EDQ employee or MEDQ agent) must give any occupier of the relevant land a notice stating—
  - (a) that an authorised employee or agent proposes to enter the relevant land; and
  - (b) the reason for the proposed entry; and
  - (c) the day and time of the proposed entry.
- (4) If the occupier of the relevant land is present, the authorised employee or agent must do, or make a reasonable attempt to do, the following things before entering the relevant land—
  - (a) identify themselves to the occupier by complying with section 32ZY;
  - (b) tell the occupier the purpose of the entry;
  - (c) seek the consent of the occupier to the entry;
  - (d) tell the occupier that the authorised employee or agent is permitted under this Act to enter the place without the occupier's consent and take the action required under the enforcement notice.
- (5) MEDQ may recover the amount that MEDQ properly and reasonably incurs in taking the action as a debt payable by the person who failed to take the action.
- (6) In this section—

***authorised employee or agent*** means an EDQ employee or MEDQ agent who has, under section 32ZX, been issued with an identity card that is still in force.

***relevant land***, in relation to an enforcement notice—

- (a) means the premises where the action is required to be taken under the enforcement notice; and
- (b) does not include a home.

*Note*—

See also the Planning Act, section 173, as it applies under section 104A of this Act.

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## 124 Roads and road closures

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

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

- (1) MEDQ may, by gazette notice, declare any of the following is vested in MEDQ, in fee simple—
  - (a) any land that comprised a road under the *Land Act 1994* that has been permanently closed under section 124;
  - (b) unallocated State land in a priority development area.
- (2) The chief executive of the department in which the *Land Act 1994* is administered must, under that Act, register the vesting if MEDQ lodges in the land registry under that Act—

- (a) a request under that Act to register the vesting; and
  - (b) if that chief executive so requires—a plan of subdivision under that Act for the land the subject of the vesting; and
  - (c) a copy of the gazette notice.
- (3) On the registration of the request to vest, the Governor in Council may issue to MEDQ a deed of grant under the *Land Act 1994* for the land the subject of the vesting.
- (4) Despite the *Land Act 1994* and the *Land Title Act 1994*, no fee is payable by MEDQ in relation to the registration of the vesting or to give effect to it.

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

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

## **126A Direction to particular entities to provide information**

- (1) This section applies in relation to the following entities—
  - (a) a distributor-retailer;
  - (b) a government entity;
  - (c) a local government.
- (2) MEDQ may give a written direction to the entity to give stated information to MEDQ by a stated time and in a stated way.
- (3) However, the direction may be given only if MEDQ is satisfied it needs the information for the proper and orderly

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planning, development and management of a priority development area or PDA-associated land.

- (4) The entity must comply with the direction.
- (5) In this section—  
*information* includes a document.

### **127 Direction to particular entities to accept transfer**

- (1) This section applies in relation to the following entities—
  - (a) a distributor-retailer;
  - (b) a government entity;
  - (c) a local government.
- (2) MEDQ may give a written direction to the entity to accept the transfer to it of—
  - (a) stated land in a priority development area, or stated PDA-associated land for a priority development area, owned by MEDQ; or
  - (b) a stated amount from the Fund for providing or maintaining infrastructure relating to stated land in a priority development area, or stated PDA-associated land for a priority development area, owned by MEDQ.
- (3) However, the direction may be given only if MEDQ is satisfied the transfer is reasonably necessary for the main purpose of this Act.
- (4) At least 20 business days before giving the direction, MEDQ must give written notice of the proposed transfer to the entity.
- (5) If the entity raises concerns or other issues relating to the proposed transfer and MEDQ proceeds with giving the direction, the direction must include an explanation of how the concerns or other issues have been considered.
- (6) The direction may include—
  - (a) conditions on which the transfer must be made; and

- (b) particular actions that the entity must take to give effect to the transfer.
- (7) The entity must do every thing reasonably necessary to comply with the direction.
- (8) If the entity is a local government, on the making of the transfer, the stated land is taken to be land that the local government holds on trust in fee simple to which the Planning Act, section 159 applies.

## **128 Direction to particular entities to provide or maintain infrastructure**

- (1) This section applies in relation to the following entities—
  - (a) a distributor-retailer;
  - (b) a government entity;
  - (c) a local government.
- (2) MEDQ may give a written direction to the entity to provide or maintain stated infrastructure—
  - (a) in, or relating to, a stated priority development area; or
  - (b) on, or related to, PDA-associated land.
- (3) However, the direction may be given only if—
  - (a) MEDQ is satisfied the provision or maintenance of the infrastructure by the entity is necessary for the proper and orderly planning, development and management of the priority development area or PDA-associated land; and
  - (b) MEDQ has taken reasonable steps to secure the provision or maintenance of the infrastructure by agreement with the entity.
- (4) At least 20 business days before giving the direction, MEDQ must give written notice of the proposed direction to the entity.
- (5) If the entity raises concerns or other issues relating to the proposed provision or maintenance of the infrastructure and

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MEDQ proceeds with giving the direction, the direction must include an explanation of how the concerns or other issues have been considered.

- (6) The direction may include—
  - (a) conditions on which the provision or maintenance of the infrastructure must be carried out; and
  - (b) particular actions that the entity must take to give effect to the provision or maintenance of the infrastructure.
- (7) The entity must comply with the direction.
- (8) If a thing required to be done under the direction would, apart from this section, require a water approval, the thing may be done without a water approval.
- (9) Subsections (7) and (8) apply despite any other Act or law.

## Part 9 Fees

### 129 Application fees

- (1) This section applies if MEDQ is deciding the fee for an application under this chapter.
- (2) The fee can not be more than the actual cost of considering and processing the application.
- (3) However, for the following applications the fee may also include a reasonable component to recover MEDQ's associated planning and regulatory costs—
  - (a) a PDA development application;
  - (b) an amendment application;
  - (c) an application for an approval mentioned in section 104.
- (4) In this section—

*associated planning and regulatory costs* means—

  - (a) costs of making or amending the relevant development instrument; and

- (b) costs associated with the proper and orderly planning, development and management of the priority development area or PDA-associated land.

### **129A Refunding and waiving fees**

- (1) MEDQ may, but need not—

- (a) refund all or part of a required fee; or
- (b) waive all or part of a required fee.

- (2) In this section—

*required fee* means a fee required to be paid for an application under this chapter.

## **Chapter 4 Establishment of board and committees**

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

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

##### **130 Establishment**

The Economic Development Board is established.

##### **131 Board's functions**

- (1) The board has the following functions—
  - (a) to decide the objectives, strategies and policies to be followed by MEDQ;



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- (b) to ensure MEDQ substantially complies with its strategic plan and operational plan under the *Financial Accountability Act 2009* for a financial year;
  - (c) to perform the functions of MEDQ that are—
    - (i) identified in a document mentioned in paragraph (b); and
    - (ii) delegated by MEDQ to the board under section 169(1)(c);
  - (d) to ensure MEDQ adopts best practice corporate governance, financial management and accountability arrangements;
  - (e) to monitor, and report to MEDQ about, the performance of MEDQ's functions and the exercise of MEDQ's powers;
  - (f) to ensure MEDQ complies with its obligations under this Act or another law.
- (2) The board also has any other function given to the board under this Act or another Act.

### **131A Board's powers**

- (1) The board has the power to do anything necessary or convenient to be done for the performance of the board's functions.
- (2) The board also has the powers given to the board under this Act or another Act.

## **Division 2                      Membership**

### **132 Membership of the board**

- (1) The board consists of the following persons (each a *board member*)—
  - (a) the chief executive of the department;

- (b) the under-Treasurer;
  - (c) at least 3 but not more than 6 other members appointed by the Governor in Council.
- (2) A person is eligible for appointment under subsection (1)(c) only if the person—
- (a) has extensive knowledge of and experience in 1 or more of the following—
    - (i) local government;
    - (ii) land use planning;
    - (iii) social policy or community development;
    - (iv) law, economics or accounting;
    - (v) the construction or development industries;
    - (vi) natural resource and environmental management;
    - (vii) business or financial management; or
  - (b) has other knowledge and experience the Governor in Council considers appropriate.
- (3) The CEO, or executive officer of the EDQ employing office, is not eligible for appointment under subsection (1)(c).
- (4) A member appointed under subsection (1)(c) may be appointed on a full-time or part-time basis.
- (5) A member appointed under subsection (1)(c) is appointed under this Act and not the *Public Sector Act 2022*.
- (6) In this section—

***treasury department*** means the department in which the *Financial Accountability Act 2009* is administered.

***under-Treasurer*** means the chief executive of the treasury department.

### 133 Chairperson and deputy chairperson

- (1) The Governor in Council may appoint—

- (a) a board member to be the chairperson of the board; and
  - (b) another board member to be the deputy chairperson of the board.
- (2) A board member may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a board member.
- (3) A person holds office as chairperson or deputy chairperson for the term, ending not later than the person's term of appointment as a board member, stated in the person's appointment as chairperson or deputy chairperson.
- (4) The deputy chairperson must act as chairperson—
- (a) during a vacancy in the office of chairperson; and
  - (b) during all periods when the chairperson is absent from duty or for another reason can not perform the duties of the office.
- (5) A member chosen by a majority of the members of the board present must act as chairperson—
- (a) during a vacancy in both the office of the chairperson and office of the deputy chairperson; and
  - (b) during all periods when both the chairperson and deputy chairperson are absent from duty or for another reason can not perform the duties of the office.

### **134 Terms and conditions of appointment and vacancy in office**

- (1) Subject to subsections (5) and (6), an appointed board member holds office for the term stated in the member's instrument of appointment.
- (2) The term stated in the instrument of appointment must not be more than 4 years.
- (3) An appointed board member is to be paid the remuneration and allowances decided by the Governor in Council.

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- (4) An appointed board member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.
- (5) An appointed board member may resign by signed notice given to MEDQ.
- (6) The Governor in Council may end an appointed board member's appointment if the member—
  - (a) is convicted of an indictable offence; or
  - (b) is or becomes an insolvent under administration; or
  - (c) is disqualified from managing corporations under the Corporations Act, part 2D.6; or
  - (d) becomes incapable of performing the functions of a board member because of physical or mental incapacity or some other reason; or
  - (e) is guilty of misconduct of a type that could warrant dismissal from the public service if the member were an officer of the public service; or
  - (f) is not eligible to be a member of the board; or
  - (g) is absent from 3 consecutive meetings of the board without leave of the board or the chairperson and without reasonable excuse; or
  - (h) engages in inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office of board member; or
  - (i) does not comply with section 135(2) or (3); or
  - (j) does not comply with section 161; or
  - (k) fails to comply with section 163.
- (7) In this section—

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

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## 135 Disclosure of interests at board meetings

- (1) This section applies to a board member if—
  - (a) a matter is being considered, or is about to be considered, at a board meeting; and
  - (b) the board member has a material personal interest in the matter; and
  - (c) the material personal interest could conflict with the proper performance of the board member's duties in relation to the consideration of the matter.
- (2) For subsection (1), a board member has a *material personal interest* in a matter if any of the following entities stands to gain a benefit or suffer a loss (either directly or indirectly) because of the outcome of the consideration of the matter—
  - (a) the board member;
  - (b) the board member's spouse;
  - (c) a parent, child or sibling of the board member;
  - (d) an employer, other than a government entity, of the board member;
  - (e) an entity, other than a government entity, of which the board member is an office holder.
- (3) As soon as practicable after the relevant facts come to the knowledge of the board member, the board member must disclose the nature of the material personal interest to the other board members at the meeting.
- (4) The board member may further participate in the meeting only if a majority of the other board members at the meeting vote in favour of the board member's further participation.
- (5) However, the board member may not participate in any vote on the matter at the meeting.
- (6) A disclosure under subsection (3) must be recorded in the minutes of the meeting.
- (7) A failure to make a disclosure under subsection (3) does not, of itself, invalidate a decision of the board.

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

### **136      Conduct of business**

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

### **137      Board meetings**

- (1) The chairperson may convene a meeting of the board members.
- (2) The chairperson must convene a board meeting—
  - (a) at least 6 times each year; and
  - (b) if asked, in writing, by—
    - (i) at least half of the board members for the time being; or
    - (ii) the Minister.

### **138      Quorum at board meetings**

- (1) A quorum for a board meeting is a majority of the board members for the time being.
- (2) However, the majority under subsection (1) must include a board member mentioned in section 132(1)(a) or (b).
- (3) Also, if at a board meeting a board member present at the meeting is required under section 135 not to be present during deliberations, or not to take part in any decision, of the board for a particular matter, the remaining board members present at the meeting constitute a quorum for the meeting.

### **140      Presiding at meetings**

- (1) The chairperson is to preside at all board meetings at which the chairperson is present.

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

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

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

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

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

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

The board must keep—

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





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- (c) reporting to MEDQ and the board about the committee's performance of its functions under this Act.
  - (2) A local representative committee may do all things necessary or convenient to be done for the performance of its functions.

## **Part 3A                      Local consultative committees**

### **159A Establishment**

As soon as practicable after a declaration regulation is made under section 34(1), MEDQ must—

- (a) establish a committee (a *local consultative committee*) for the provisional priority development area declared under the declaration regulation; and
- (b) decide the terms of reference for the committee, including how the committee must operate in performing its functions.

### **159B Functions**

- (1) A local consultative committee for a provisional priority development area has the following functions—
  - (a) to advise MEDQ about the following matters within the scope of the committee's terms of reference—
    - (i) the impact, or potential impact, of proposed development in the area, including, for example, the impact or potential impact on the environment or public amenity;
    - (ii) community needs and expectations in the area;
  - (b) to report to MEDQ, in accordance with the committee's terms of reference, about the committee's performance of its functions under this Act.
- (2) A local consultative committee may do all things necessary or convenient to be done for the performance of its functions.

### **159C Membership**

- (1) A local consultative committee for a provisional priority development area consists of the following persons (each a *member*)—
  - (a) the CEO or a senior executive nominated by the CEO;
  - (b) the chief executive officer of the relevant local government for the provisional priority development area or a senior executive nominated by the chief executive officer;
  - (c) at least 1 person MEDQ considers can appropriately represent the interests of the local community;
  - (d) if MEDQ considers that 1 or more entities are likely to be affected by development in the provisional priority development area—at least 1 person MEDQ considers can appropriately represent the interests of the entity or entities.
- (2) A member mentioned in subsection (1)(c) or (d) is an *appointed member*.
- (3) An appointed member is appointed by MEDQ.
- (4) A local consultative committee must not consist of more than 3 appointed members.
- (5) A member of a local consultative committee holds office on the terms and conditions MEDQ considers appropriate, including terms about remuneration.
- (6) The chairperson of a local consultative committee is the member mentioned in subsection (1)(a).

### **159D Dissolution of local consultative committees**

- (1) A local consultative committee for a provisional priority development area is dissolved on the earlier of the following—
  - (a) when MEDQ dissolves the committee;

- (b) when the provisional priority development area ceases to be a provisional priority development area.
- (2) MEDQ must not dissolve a local consultative committee for a provisional priority development area before the provisional land use plan for the area is made.

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

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

- (1) To decide whether to recommend to the Governor in Council a person for appointment as a board member under section 132(1)(d), MEDQ may ask the commissioner of the police service for—
  - (a) a written report about the person's criminal history; and
  - (b) a brief description of the circumstances of any conviction mentioned in the criminal history.
- (2) The commissioner of the police service must comply with a request under subsection (1).
- (3) However, MEDQ may make a request about a person under subsection (1) only if the person has given MEDQ written consent for the request.
- (4) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) MEDQ must ensure a report given to MEDQ under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (6) MEDQ may delegate its power under this section to an appropriately qualified public service officer.
- (7) In this section—

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

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

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

*Note—*

See also section 171 (Protection from civil liability).

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## **162 MEDQ may bring proceedings**

- (1) If a board member or committee member contravenes section 161, MEDQ may recover from the member as a debt due to MEDQ either or both of the following—
  - (a) if the member or any other person made a profit as a result of the contravention—an amount equal to the profit;
  - (b) if MEDQ has suffered loss or damage as a result of the contravention—an amount equal to the loss or damage.
- (2) A proceeding mentioned in subsection (1) may be—
  - (a) brought in the name of MEDQ; and
  - (b) started in a court of competent jurisdiction.

# **Chapter 5 General**

## **Part 1 Other offences**

### **163 Privacy**

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

(c) use the information to benefit any person.

Maximum penalty—100 penalty units.

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

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

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

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

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

- (4) This section does not affect the following—
- (a) the liability of the corporation for an offence against the executive liability provision;
  - (b) the liability, under chapter 2 of the Criminal Code, of any person, whether or not the person is an executive officer of the corporation, for an offence against the executive liability provision.

- (5) In this section—

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

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

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

## 165 Giving MEDQ a false or misleading document

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

Maximum penalty—1,665 penalty units.

## Part 2 Proceedings

### 166 Proceedings for offences

A proceeding for an offence against this Act—

- (a) is to be heard and decided summarily; and

- (b) may be brought only by MEDQ or a person acting for MEDQ.

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

A proceeding for an offence against this Act must start—

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

### **168 Evidentiary aids**

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

- (a) a decision, direction or notice under this Act or the repealed ULDA Act;
- (b) a thing that must or may be included in a register kept under this Act;
- (c) that a stated document is another document kept under this Act;
- (d) that a stated document is a copy of, or an extract from or part of, a thing mentioned in paragraph (a) or (b);
- (e) that on a stated day—
  - (i) a stated person was given a stated decision, direction or notice under this Act or the repealed ULDA Act; or
  - (ii) a stated direction or requirement under this Act or the repealed ULDA Act was made of a stated person;
- (f) that on a stated day, or during a stated period, a PDA development approval was, or was not, in force.



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## Part 3 Provisions about performance of functions etc. under this Act

### 169 Delegations

- (1) MEDQ may delegate any of its functions or powers under this Act, other than a function or power under chapter 2, part 3, division 3A or chapter 5, part 3B, to any of the following—
  - (a) the CEO;
  - (b) the executive officer;
  - (c) the board;
  - (d) a board member;
  - (e) a local representative committee;
  - (f) a member of a local representative committee;
  - (g) a local government;
  - (h) the Cross River Rail Delivery Authority;
  - (i) an appropriately qualified employee of the EDQ employing office who performs work for or within, or duties in, MEDQ under a mobility arrangement mentioned in section 32ZH.

*Note—*

For the delegation of MEDQ's functions or powers under chapter 5, part 3B, division 2, see section 171K.

- (2) The CEO may subdelegate a function or power of MEDQ delegated to the CEO under subsection (1) to an appropriately qualified employee of the EDQ employing office who performs work for or within, or duties in, MEDQ under a mobility arrangement mentioned in section 32ZH.
- (3) The executive officer may subdelegate a function or power of MEDQ delegated to the executive officer under subsection (1) to an appropriately qualified employee of the EDQ employing office who performs work for or within, or duties in, MEDQ under a mobility arrangement mentioned in section 32ZH.

- (4) A local government may subdelegate a function or power of MEDQ delegated to it under subsection (1) to an appropriately qualified employee of the local government.
- (5) However, subsection (4) does not apply to a function or power if MEDQ has, when delegating the function or power to the local government, directed that the function or power can not be subdelegated.
- (6) A board member may delegate the member's functions as a member to an appropriately qualified employee of the EDQ employing office who performs work for or within, or duties in, MEDQ under a mobility arrangement mentioned in section 32ZH.
- (7) The Cross River Rail Delivery Authority may subdelegate a function or power of MEDQ delegated to it under subsection (1) to—
  - (a) a member of the authority's board of management; or
  - (b) the authority's chief executive officer; or
  - (c) an appropriately qualified member of the authority's staff.
- (8) However, subsection (7) does not apply to a function or power if MEDQ has, when delegating the function or power to the Cross River Rail Delivery Authority, directed that the function or power can not be subdelegated.
- (9) In this section—

***Cross River Rail Delivery Authority*** means the Cross River Rail Delivery Authority established under the *Cross River Rail Delivery Authority Act 2016*, section 8.

## 170 MEDQ may give directions

- (1) An entity to whom a function or power is delegated under section 169 must perform the function or exercise the power subject to—
  - (a) the general direction and control of MEDQ; and

- (b) any specific written directions given to it by MEDQ.
- (2) Without limiting subsection (1)(b), a direction under that provision may require the entity to give stated information to MEDQ.

## 171 Protection from civil liability

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

*Note—*

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

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

*prescribed person* means—

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

## Part 3A Service of documents

### 171A Application of part

This part applies if a person is required or permitted under this Act to serve a document (the *relevant document*) on another person (the *receiver*).

## 171B Service of documents

- (1) The person may serve the relevant document on the receiver by giving the receiver another document (a *communication*) stating that—
  - (a) the relevant document can be viewed on a stated website or other electronic medium; and
  - (b) the receiver may ask the person for a copy of the relevant document.
- (2) Also, if the receiver has given the person a notice stating an electronic address for service, the person may serve the relevant document on the receiver by sending to the electronic address—
  - (a) the relevant document; or
  - (b) a notice (also a *communication*) stating the relevant document can be viewed by opening a stated hyperlink.

*Examples of an electronic address—*

an email address, internet protocol address or digital mailbox address

- (3) For subsections (1) and (2)(b), the receiver is taken to have been served with the relevant document only if, by accessing the website or other electronic medium or opening the hyperlink, the receiver would have been able to view the relevant document—
  - (a) at the time the communication was given or sent (the *sending time*); and
  - (b) for a period after the sending time that, in the circumstances and having regard to the receiver's functions for the document, was reasonable to allow the receiver to—
    - (i) access the website or other electronic medium, or open the hyperlink; and
    - (ii) read or copy the relevant document.
- (4) Subsection (3) applies whether or not the receiver viewed the website or other electronic medium, or opened the hyperlink.

- (5) Subsection (6) applies if the receiver is given a communication under subsection (1) and asks the person for a copy of the relevant document in hard copy or electronic form.
- (6) The person must, as soon as practicable after the request is made, give the receiver a copy of the relevant document in the requested form.
- (7) This section does not limit the *Acts Interpretation Act 1954*, section 39 or the *Electronic Transactions (Queensland) Act 2001*.

### **171C Certificate of service**

- (1) In a civil or criminal proceeding, a certificate of service in relation to a communication that states the following matters is evidence of those matters—
  - (a) the sending time for the communication;
  - (b) that, by accessing the website or other electronic medium, or opening the hyperlink, stated in the communication, the receiver would have been able to view the relevant document—
    - (i) at the sending time; and
    - (ii) for a stated period after that time.
- (2) In this section—

***certificate of service***, in relation to a communication, means a certificate that—

- (a) is signed by the person who gave or sent the communication; and
- (b) attaches a copy of the communication.

## **Part 3B**                      **Applicable events**

### **Division 1**                      **Preliminary**

#### **171D**    **Definitions for part**

In this part—

*applicable event* means an applicable event declared under the *Planning Act 2016*, section 275E(2).

*applicable event notice* see the *Planning Act 2016*, section 275E(2).

*applicable event period* see the *Planning Act 2016*, section 275E(3)(a).

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

*relevant change* see section 171F(1).

*temporary use licence* see section 171F(1).

### **Division 2**                      **Temporary use licences**

#### **Subdivision 1**                      **Preliminary**

#### **171E**    **Application of division**

This division applies in relation to the following premises if an applicable event notice for an applicable event applies to the part of the State in which the premises is located—

- (a) premises in a priority development area;
- (b) premises that are PDA-associated land for a priority development area.

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## Subdivision 2      **Applications for temporary use licences**

### 171F    **Applications for temporary use licences**

- (1) A person may apply to MEDQ for a licence (a *temporary use licence*) in relation to the premises that does any of the following (each a *relevant change*)—
  - (a) if a PDA development approval for a material change of use is in effect for the premises—changes a PDA development condition of the PDA development approval;
  - (b) otherwise—changes the existing lawful use of the premises, including, for example, by—
    - (i) increasing the intensity or scale of the existing lawful use; or
    - (ii) adding a new use; or
    - (iii) replacing the existing lawful use with a new use.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) include the matters prescribed by regulation.
- (3) To remove any doubt, it is declared that the application may relate to multiple premises.

### 171FA MEDQ may consult about applications

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

### 171G    **Decisions on applications**

- (1) MEDQ must consider an application for a temporary use licence made under section 171F and decide—

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- (a) to give the temporary use licence, with or without conditions; or
  - (b) to refuse to give the temporary use licence.
- (2) MEDQ may give the temporary use licence only if satisfied that, having regard to the nature of the applicable event, there are reasonable grounds for the relevant change the subject of the licence applying during the applicable event period for the applicable event notice.

### **171H Notices of decisions**

- (1) MEDQ must give the applicant notice of MEDQ's decision.
- (2) If the decision is to give the temporary use licence—
  - (a) the notice must state—
    - (i) the day the notice is given; and
    - (ii) the premises to which the licence relates (the *licensed premises*); and
    - (iii) the end of the applicable event period for the applicable event notice to which the licence relates; and
    - (iv) details of the relevant change; and
    - (v) any conditions imposed on the licence; and
    - (vi) any other matter prescribed by regulation; and
  - (b) MEDQ must give a copy of the notice to the relevant local government for the premises.
- (3) If the decision is to refuse to give the temporary use licence, the notice must state the reasons for the decision.

### **171I Period of temporary use licences**

- (1) A temporary use licence has effect from the day the notice mentioned in section 171H(1) is given to the applicant (the *licence starting day*) until—



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- (a) if neither paragraph (b) nor paragraph (c) applies—the end of the applicable event period for the applicable event notice in effect at the licence starting day; or
  - (b) if the licence is sooner cancelled under section 171JK or 171JM—the day the cancellation takes effect; or
  - (c) if the period of the licence is extended under section 171JD or 171JF—the end of the extended period.

*Note—*

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

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

## **171J Effect of temporary use licences**

- (1) If a temporary use licence changes a PDA development condition of a PDA development approval, the PDA development approval is taken, for the period the licence is in effect—
  - (a) to be changed in the way stated in the licence; and
  - (b) to be subject to the conditions of the licence.
- (2) If a temporary use licence changes the existing lawful use of premises, a person does not, during the period the licence is in effect, commit an offence against section 73 or 76 in relation to the changed use, unless the person contravenes a condition of the licence.
- (3) Despite section 120(2), an infrastructure agreement under the *Planning Act 2016* does not apply instead of a part of a PDA development approval changed under subsection (1).
- (4) Despite anything else in this Act or the *Planning Act 2016*, development, other than a material change of use, does not stop being PDA assessable development, or prohibited development or assessable development under the *Planning*

*Act 2016*, merely because a temporary use licence has been given.

### **Subdivision 3      Extension of temporary use licences by application**

#### **171JA Application of subdivision**

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

#### **171JB Applications to extend temporary use licences**

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

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### **171JC MEDQ may consult about applications**

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

### **171JD Decisions on applications**

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

### **171JE Notices of decisions**

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

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

## **Subdivision 4      Power of MEDQ to extend all temporary use licences**

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

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

- (4) If a declaration is made under subsection (2), the period of each relevant temporary use licence in effect when the declaration is made is extended until the end of the extended applicable event period.
- (5) A declaration under subsection (2) is a statutory instrument.

## **Subdivision 5      Amendment or cancellation of temporary use licences by application**

### **171JG Applications to amend temporary use licences**

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

### **171JH MEDQ may consult about applications**

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

### **171JI Decisions on applications**

- (1) MEDQ must consider an application made under section 171JG and decide—
  - (a) to make all or part of the requested amendment to the temporary use licence; or
  - (b) to refuse to make the requested amendment to the temporary use licence.
- (2) MEDQ may decide to amend a temporary use licence only if satisfied that, having regard to the nature of the applicable

event in relation to which the licence was given, there are reasonable grounds for making the amendment.

### **171JJ Notices of decisions**

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

### **171JK Requests to cancel temporary use licences**

- (1) The holder of a temporary use licence may ask MEDQ to cancel the licence.
- (2) The request must—
  - (a) be in writing; and
  - (b) state the licensed premises for the temporary use licence.

- (3) On receiving the request, MEDQ must cancel the temporary use licence by giving notice of the cancellation to the holder of the licence.
- (4) The cancellation takes effect on the giving of the notice or a later day stated in the notice.
- (5) MEDQ must give a copy of the notice to the relevant local government for the licensed premises for the temporary use licence.

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

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

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

- (a) MEDQ reasonably believes—
  - (i) the holder of the licence has failed to comply with a condition of the licence; or
  - (ii) the licence was obtained because of false or misleading information; or
  - (iii) public safety has been endangered, or is likely to be endangered, because of the licence;
- (b) MEDQ—
  - (i) becomes aware of an impact on the environment, or the amenity of the locality in which the licensed premises for the licence are located, that is occurring, or is likely to occur, as a result of the relevant change the subject of the licence; and
  - (ii) considers the application for the licence would have been refused if MEDQ had been aware of the impact before giving the licence;

- (c) MEDQ is satisfied that, having regard to the nature of the applicable event in relation to which the licence was given, there are no longer reasonable grounds for the relevant change the subject of the licence applying during the applicable event period for the applicable event notice.

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

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



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- (e) if the proposed action is to cancel the licence—
    - (i) to suspend the licence for a period; or
    - (ii) to amend the licence having regard to the submissions.
  - (4) MEDQ must give the holder of the temporary use licence notice of MEDQ’s decision.
  - (5) The decision takes effect on—
    - (a) the day the notice is given to the holder of the temporary use licence; or
    - (b) a later day stated in the notice.
  - (6) If the temporary use licence is amended, on the day the amendment takes effect section 171J applies to the licence as if a reference in the section to a temporary use licence were a reference to the licence as amended.
  - (7) If the temporary use licence is suspended, the licence does not have effect for the period of the suspension.
  - (8) MEDQ must give a copy of the notice mentioned in subsection (4) to the relevant local government for the licensed premises for the temporary use licence.

## **Subdivision 7      Delegations**

### **171K   Delegations**

MEDQ may delegate MEDQ’s functions or powers under this division, other than under subdivision 4, to any of the following—

- (a) the CEO;
- (b) the executive officer;
- (c) an appropriately qualified employee of the EDQ employing office who performs work for or within, or duties in, MEDQ under a mobility arrangement mentioned in section 32ZH.

## **Division 3                      Effect of particular declarations under Planning Act 2016**

### **171L    Effect of declarations under Planning Act 2016, s 275O**

- (1) This section applies if—
  - (a) a declaration is made under the *Planning Act 2016*, section 275O in relation to a use or class of uses; and
  - (b) any of the following has the effect of limiting the hours of operation of the use or a use of the class or restricting the movement of goods in relation to the use or a use of the class—
    - (i) a provision of this Act;
    - (ii) a PDA development condition of a PDA development approval.
- (2) For the period the declaration is in effect, the provision or condition does not apply in relation to the carrying out of the use, or a use of the class, on premises in the area to which the declaration applies.

## **Division 4                      Extending and suspending periods under Act**

### **171M    Application of division**

This division applies in relation to an applicable event notice for an applicable event.

### **171N    Extension of periods for doing things under Act**

- (1) This section applies if MEDQ is satisfied that, because of the applicable event, it is necessary to extend a period under this Act for the doing of a thing (the *relevant period*).

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*Examples of periods under this Act for the doing of a thing—*

- the period mentioned in section 36E(1) for the making of a provisional land use plan
  - the period mentioned in section 83A(1)(b) for giving requested information
- (2) MEDQ may, by notice published on MEDQ’s website (an ***extension notice***), extend the relevant period by a stated period.
  - (3) The extension notice must state that the extension applies in relation to the relevant period in either or both of the following circumstances—
    - (a) the relevant period starts during the period the notice is in effect;
    - (b) the relevant period had started, but not ended, before the notice took effect.
  - (4) The extension notice—
    - (a) must be published before the day that is 30 business days after the end of the applicable event period for the applicable event notice; and
    - (b) has effect from the day the extension notice is published until the expiry day stated in the notice, unless the notice is earlier revoked.
  - (5) MEDQ may, by notice published on MEDQ’s website (a ***further extension notice***), further extend the relevant period by a stated period.
  - (6) The further extension notice may state in relation to a relevant period whether the relevant period extended by a stated period under the extension notice will be further extended by the further extension notice.
  - (7) The further extension notice—
    - (a) must be published before the day mentioned in subsection (4)(a) and before the day the extension notice stops having effect; and

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- (b) has effect from the day the extension notice stops having effect until the expiry day stated in the further extension notice, unless the further extension notice is earlier revoked.
- (8) If a relevant period is extended under an extension notice or a further extension notice, the extension continues to have effect even if the notice stops having effect.
- (9) An extension notice and a further extension notice are statutory instruments.

### **1710 Suspension of periods for doing things under Act**

- (1) This section applies if MEDQ is satisfied that, because of the applicable event, it is necessary to suspend a period under this Act for the doing of a thing (the *relevant period*).
- (2) MEDQ may, by notice published on MEDQ's website (a *suspension notice*), suspend the relevant period for the period the notice is in effect.
- (3) The suspension notice must state that the suspension applies in relation to the relevant period in either or both of the following circumstances—
  - (a) the relevant period starts during the period the notice is in effect;
  - (b) the relevant period had started, but not ended, before the notice took effect.
- (4) The suspension notice—
  - (a) must be published before the day that is 30 business days after the end of the applicable event period for the applicable event notice; and
  - (b) has effect from the day the suspension notice is published until the expiry day stated in the notice, unless the notice is earlier revoked.
- (5) MEDQ may, by notice published on MEDQ's website (a *further suspension notice*), further suspend the relevant period for the period the notice is in effect.

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- (6) The further suspension notice may state in relation to a relevant period whether the relevant period suspended by a stated period under the suspension notice will be further suspended by the further suspension notice.
  - (7) The further suspension notice—
    - (a) must be published before the day mentioned in subsection (4)(a) and before the day the suspension notice stops having effect; and
    - (b) has effect from the day the suspension notice stops having effect until the expiry day stated in the further suspension notice, unless the further suspension notice is earlier revoked.
  - (8) If a suspension notice or further suspension notice is in effect in relation to the relevant period for the doing of a thing—
    - (a) the relevant period is suspended; and
    - (b) the doing of the thing has no effect.
  - (9) A suspension notice and a further suspension notice are statutory instruments.

## **Part 4                      Other administrative matters**

### **172      Registers**

- (1) MEDQ must keep a register of each of the following—
  - (a) draft provisional land use plans that have taken effect;
  - (b) reports on draft provisional land use plans under section 36E(3)(a);
  - (c) provisional land use plans that have taken effect, as amended from time to time;
  - (d) each amendment of a provisional land use plan made or proposed under section 36H or 36I;
  - (e) interim land use plans that have taken effect;

- (f) each extension to an interim land use plan given under section 40ABA;
- (g) each proposed development scheme or proposed amendments of development schemes under chapter 3, part 3;
- (h) the following information about PDA-associated development for a priority development area—
  - (i) a description of the development, including plans and supporting documentation;
  - (ii) whether the development was declared by MEDQ under section 40C(1) or identified in the relevant development instrument for the area;
  - (iii) a description of the land on which the development is, or is proposed to be, located;
- (i) declarations made by MEDQ under section 40C(1);
- (j) reports on development schemes under section 63(2);
- (k) development schemes that have taken effect;
- (l) PDA development applications;
- (m) PDA development approvals;
- (n) PDA exemption certificates;
- (o) place renewal area declarations;
- (p) place renewal frameworks;
- (q) temporary planning instruments;
- (r) a description of the land to which each housing agreement entered into by MEDQ applies;
- (r) temporary use licences given by MEDQ under section 171G.
- (s) by-laws;
- (t) special rates and charges;
- (u) infrastructure expenses recoupment charges;
- (v) directions given under sections 126A, 127 and 128.

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- (1A) For subsection (1)(r), the register of temporary use licences must, for each temporary use licence given by MEDQ, include all of the following documents or information—
- (a) the day the licence was given;
  - (b) the licensed premises for the licence;
  - (c) details of the relevant change the subject of the licence;
  - (d) a copy of the licence;
  - (e) a copy of each notice of a decision to extend the period for which the licence has effect given under section 171JE;
  - (f) if the period of the licence is extended under section 171JF—when the extended period ends;
  - (g) a copy of each notice of a decision to make all or part of a requested amendment to the licence given under section 171JJ;
  - (h) if the licence is cancelled under section 171JK or 171JM—the day the cancellation took effect;
  - (i) if the licence is amended under section 171JM—a copy of the notice of the decision to make the amendment given under section 171JM(4);
  - (j) if the licence is suspended under section 171JM—the period of the suspension.
- (2) MEDQ may also keep a register of other documents or information relating to this Act that MEDQ considers appropriate.
- (3) MEDQ may keep a register in the way it considers appropriate.
- (4) However, the documents included in the registers must also be published on MEDQ’s website.

## **173 Access to registers**

- (1) MEDQ must—

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

### **175 Approved forms**

MEDQ may approve forms for use under this Act.

### **176 Regulation-making power**

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



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

### Part 1 Preliminary

#### 177 Definitions for ch 6

In this chapter—

*commencement* means the commencement of this section.

*former entity* means—

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

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

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

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

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

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

#### 178 Abolition of former entity etc.

- (1) At the commencement—

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- (a) each former entity is abolished; and
  - (b) the members of the former ULDA stop being members of the authority; and
  - (c) the appointment and employment of the chief executive officer of the former ULDA ends.
- (2) Subsection (1)(b) or (c) does not affect the member's or chief executive officer's appointment in any other office.

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

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

- (4) Subject to this section, the chief executive may issue a direction to a person to facilitate the transition of employees from the former ULDA to the department.
- (5) A person given a direction must comply with the direction.
- (6) If a person employed under subsection (2) was employed by the former ULDA under a contract, the person is taken to be employed by the department under the contract under which the person was employed before the commencement.
- (7) In this section—  
*employee*, of the former ULDA, does not include the chief executive officer appointed under the repealed ULDA Act, section 120.

## **180 MEDQ is legal successor**

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

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

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

### *Example of another arrangement—*

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

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- (c) any property that, immediately before the commencement, was held on trust or subject to a condition, by a former entity continues to be held on the same trust, or subject to the same condition, by MEDQ.
- (2) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by MEDQ, record the vesting of property under this section in MEDQ.

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

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

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

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

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

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

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

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

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

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

**187 Annual reporting**

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

**188 Offences relating to former entity**

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

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

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

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

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

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

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

*Examples for paragraph (f)—*

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

## **Part 3                      Existing urban development areas**

### **190    Existing urban development areas**

- (1) A part of the State that was an urban development area under the repealed ULDA Act immediately before the commencement is, from the commencement, taken to be a priority development area under this Act.
- (2) A transitioned UDA may keep the name given to it under the repealed ULDA Act.
- (3) The operation of subsection (1) is not affected by the transitioned UDA having a name that includes the term ‘urban development area’ or ‘UDA’.

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

- (1) This section applies if an interim land use plan made under the repealed ULDA Act for a transitioned UDA was in effect immediately before the commencement.
- (2) From the commencement, the interim land use plan is taken to be an interim land use plan made under this Act for the transitioned UDA.
- (3) The interim land use plan applies with necessary and convenient changes to facilitate the application of this Act to the transitioned UDA.
- (4) Without limiting subsection (3)—
  - (a) a reference in the interim land use plan to the former ULDA is taken to be a reference to MEDQ; and
  - (b) a reference in the interim land use plan to urban development area is taken to be a reference to a transitioned UDA; and
  - (c) a reference in the interim land use plan to any of the following terms is taken to be a reference to the corresponding term under this Act for priority development areas—
    - (i) UDA assessable development;
    - (ii) UDA self-assessable development;
    - (iii) UDA exempt development;
    - (iv) UDA development application;
    - (v) UDA development approval;
    - (vi) UDA preliminary approval;
    - (vii) UDA development permit;
    - (viii) UDA development condition.
- (5) The interim land use plan expires—
  - (a) subject to paragraph (b), on the day it would have expired under the repealed ULDA Act, section 9 if that section had not been repealed; or



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

## 192 MEDQ must make development scheme for transitioned UDA

- (1) This section applies if, at the commencement, a development scheme has not been made under the repealed ULDA Act for a transitioned UDA.
- (2) Subject to subsection (3), MEDQ must make a development scheme under this Act for the transitioned UDA.
- (3) For subsection (2), anything done or in existence in relation to a proposed development scheme under the repealed ULDA Act for the transitioned UDA is taken to have been done or in existence under this Act.
- (4) If, under subsection (3), MEDQ is taken to have complied with sections 58 to 61 for a proposed development scheme (the *proposed scheme*)—
  - (a) MEDQ must, as soon as practicable after the commencement, give each person (a *submitter*) who made a submission received within the submission period about the proposed scheme a notice stating that—

- (i) MEDQ is considering making the proposed scheme under this Act; and
    - (ii) MEDQ's report about the proposed scheme can be inspected on the department's website; and
    - (iii) if the submitter is an affected owner for the transitioned UDA—that the submitter may, within 20 business days after receiving the notice, ask MEDQ to amend the proposed scheme to protect the owner's interests; and
  - (b) MEDQ may, within the prescribed period, amend the proposed scheme in a way MEDQ considers appropriate, including, for example, to—
    - (i) protect an affected owner's interests; or
    - (ii) ensure the implementation of the scheme complies with this Act; or
    - (iii) make a minor administrative amendment; and
  - (c) if MEDQ considers an amendment of the proposed scheme significantly changes the scheme, MEDQ must re-comply with sections 58 to 61 for the amended scheme.
- (5) For subsection (4)(b), the *prescribed period* is as follows—
- (a) 45 business days after the notice is given under subsection (4)(a);
  - (b) if, within 20 business days after being given the notice under subsection (4)(a), an affected owner for the transitioned UDA asks MEDQ to amend the proposed scheme to protect the affected owner's interests and MEDQ requires additional time to consider a matter raised by the affected owner—the period mentioned in paragraph (a) plus a further period of not more than 20 business days decided by MEDQ;
  - (c) if a caretaker period occurs within the period mentioned in paragraph (a)—that period plus a further period equal to the caretaker period plus 20 business days.

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

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

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

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

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

- (1) This section provides for the application of this Act to transitioned UDAs.
- (2) This Act applies in relation to a transitioned UDA with necessary and convenient changes, including, for example, changes to allow for—
  - (a) the transitioned UDA having been declared before the commencement of this Act; and
  - (b) a transitioned interim land use plan or transitioned development scheme, or an amendment of a transitioned development scheme, having been made before the commencement of this Act.

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

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

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

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

- (1) Subsection (2) applies if—
- (a) the repealed ULDA Act, section 13 applied to a SPA development application; and
  - (b) the application has not been decided at the commencement.
- (2) The repealed ULDA Act, section 13 continues to apply in relation to the application as if that Act had not been repealed.
- (3) An SPA development approval for land in a transitioned UDA granted under the repealed ULDA Act, section 13(2) (whether before the commencement or under subsection (2)) is taken to be an SPA development approval for land in the transitioned UDA granted under section 44(2) of this Act.

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

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

## 196 Regulation about transitioned UDAs

- (1) A regulation under this Act may include details of the following—
  - (a) each transitioned UDA;
  - (b) any of the following applying to a transitioned UDA—
    - (i) an interim land use plan;
    - (ii) a development scheme or an amendment of a development scheme.



## **Part 5**

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

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

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



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

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

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

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

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

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

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

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

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

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

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

## **202 Existing UDA development approvals**

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

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

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

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

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

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

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

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

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

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

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

(6) In this section—

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

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

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

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

## Part 6 Proceedings and related matters

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

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



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**207 Existing proceeding for enforcement order**

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

**208 Existing enforcement order**

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

**209 Proceedings for offence committed before commencement**

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

*Note—*

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

[s 210]

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

## **210 Existing Magistrates Court order**

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

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

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

## **212 Existing proceedings for declaration**

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

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

## Part 7 Other transitional provisions

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

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

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

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

## **Part 8 Repeals**

**216 Repeals**

The following Acts are repealed—

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

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## Chapter 7      Other transitional provisions

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

#### 217      Definition for part

In this part—

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

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

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

#### 219      Application of amended s 103

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

## **Part 2**

# **Transitional provisions for Planning (Consequential) and Other Legislation Amendment Act 2016**

### **220 Definitions for part**

In this part—

*amending Act* means the *Planning (Consequential) and Other Legislation Amendment Act 2016*.

*former*, in relation to a provision, means the provision as in force immediately before the provision was amended or repealed under the amending Act.

### **221 Existing SPA development application made before priority development area declared**

- (1) This section applies if, immediately before the declaration of an area as a priority development area—
  - (a) an existing SPA development application had been made for land in the area; and
  - (b) the application was a properly made application under the repealed Planning Act and had not lapsed under that repealed Act; and
  - (c) the application had not been decided.
- (2) Former section 44(2) continues to apply in relation to the application as if the amending Act had not been enacted.
- (3) If a development approval is given under the repealed Planning Act for the application, the carrying out of development, or use of land, under the approval is not a PDA development offence.
- (4) In this section—

*existing SPA development application* means a development application made under the repealed Planning Act, to which the Planning Act, section 288 applies.

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

## **222 Existing PDA development application for PDA-associated development**

- (1) This section applies to a PDA development application for PDA-associated development for a priority development area made, but not decided, before the commencement.
- (2) Former section 87(2A) continues to apply in relation to the application as if the amending Act had not been enacted.

## **223 Unfinished compliance assessment for plan of subdivision**

- (1) This section applies if—
  - (a) before the commencement, SPA compliance assessment under former section 104 had started for a plan of subdivision; and
  - (b) the assessment had not finished before the commencement.
- (2) Former section 104 continues to apply in relation to the plan as if the amending Act had not been enacted.

## **224 Existing PDA development approval**

- (1) This section applies to a PDA development approval given before the commencement.
- (2) Former section 100 continues to apply in relation to the approval as if the amending Act had not been enacted.

## **Part 3**                      **Transitional provisions for Economic Development and Other Legislation Amendment Act 2019**

### **Division 1**                **Preliminary**

#### **225**    **Definitions for part**

In this part—

*amendment Act* means the *Economic Development and Other Legislation Amendment Act 2019*.

*former*, in relation to a provision of this Act, means as in force from time to time before the commencement of the provision in which the term appears.

*new*, in relation to a provision of this Act, means as amended or inserted by the amendment Act.

### **Division 2**                **Provisions for amendments commencing on assent**

#### **226**    **References to PDA self-assessable development and PDA exempt development**

- (1) A reference in another Act or a document to PDA self-assessable development is taken to be a reference—
  - (a) to the extent the development complies with the requirements about carrying out the development under the relevant development instrument for the priority development area—to PDA accepted development; or
  - (b) otherwise—to PDA assessable development.



- (2) A reference in another Act or a document to PDA exempt development is taken to be a reference to PDA accepted development.

**227 Provisional land use plan made under declaration regulation**

- (1) This section applies to a provisional land use plan for a provisional priority development area made under a declaration regulation mentioned in former section 35 and in effect immediately before the commencement.
- (2) The provisional land use plan is taken to have been—
  - (a) made under new section 36E(1); and
  - (b) notified under a gazette notice under new section 36E(3)(c) published on the day the declaration regulation commenced.

**228 Interim land use plan made under declaration regulation**

- (1) This section applies to an interim land use plan for a priority development area made under a declaration regulation mentioned in former section 38 and in effect immediately before the commencement.
- (2) The interim land use plan is taken to have been made under new section 38.

**229 Application of former s 42M to particular material change of use**

- (1) This section applies if, immediately before the commencement, a material change of use was taken to be a lawful use under former section 42M.
- (2) Former section 42M continues to apply to the material change of use as if the amendment Act, part 6, division 2 had not commenced.

### **230 Development scheme approved under regulation**

- (1) This section applies to a development scheme for a priority development area, or a transitioned UDA, approved under a regulation made under former section 64 and in effect immediately before the commencement.
- (2) The development scheme is taken to have been notified under a gazette notice under new section 63(3)(b) published on the day the regulation commenced.
- (3) In this section—  
*transitioned UDA* see section 177.

### **231 Amendment of development scheme approved under regulation**

- (1) This section applies to an amendment of a development scheme approved under a regulation made under former section 68.
- (2) The amendment is taken to have been notified under a gazette notice under new section 63(3)(b), as applied under section 67(2), published on the day the regulation commenced.

### **232 Proceedings for offence against former s 74 or former s 164**

- (1) This section applies if a person is alleged to have committed either of the following offences before the commencement—
  - (a) an offence against former section 74;
  - (b) an offence against former section 164(1) in relation to an offence against an executive liability provision mentioned in former section 164(5), definition *executive liability provision*, paragraph (b).
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be started or continued, and the person may be punished for the offence, as if the amendment Act, part 6, division 2 had not commenced.

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- (3) Subsection (2) applies despite the Criminal Code, section 11.

### **233 Existing PDA development applications**

- (1) This section applies if a PDA development application was made, but not decided, before the commencement.
- (2) This Act, as in force immediately before the commencement, continues to apply in relation to the PDA development application as if the amendment Act, part 6, division 2 had not commenced.

### **234 Dissolution of Commonwealth Games Infrastructure Authority**

- (1) On the commencement—
- (a) the Commonwealth Games Infrastructure Authority established under former section 144 is dissolved; and
  - (b) the authority members under former section 146 who held office immediately before the commencement go out of office.
- (2) No compensation is payable to a person because of subsection (1).

## **Division 3 Provisions for amendments commencing by proclamation**

### **235 Existing PDA development applications**

- (1) This section applies if a PDA development application—
- (a) was made on or after the commencement of the amendment Act, part 6, division 2; but
  - (b) was not decided before the commencement of this section.
- (2) This Act, as in force immediately before the commencement of this section, continues to apply in relation to the PDA

development application as if the amendment Act, part 6, division 3 had not commenced.

### **236 Application of new s 103(1)**

New section 103(1) applies only to a use or preservation covenant entered into on or after the commencement.

### **237 Application of new s 113**

- (1) New section 113 applies only in relation to an enforcement order, or order under section 111, made on or after the commencement.
- (2) Former section 113 continues to apply in relation to an enforcement order, or order under section 111, made before the commencement as if the amendment Act, part 6, division 3 had not commenced.

## **Part 4 Transitional and validation provisions for Economic Development and Other Legislation Amendment Act 2024**

### **238 Definitions for part**

In this part—

*former*, for a provision of this Act, means the provision as in force from time to time before the commencement.

*new*, for a provision of this Act, means the provision as in force from the commencement.

### **239 Initial employees**

- (1) This section applies to—

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- (a) a person (an *initial employee*) who is employed as an employee of the EDQ employing office if the person was a public service employee employed by the department, other than on a fixed term contract, immediately before being employed by the EDQ employing office; and
- (b) a person (also an *initial employee*) who is employed as an employee of the EDQ employing office if the person was not, immediately before being employed by the EDQ employing office, a public service employee to whom this section applies under paragraph (a).
- (2) The terms and conditions of employment of the initial employee are the terms and conditions that applied, immediately before the commencement, to public service employees employed by the department under the existing instruments.
- (3) However, subsection (2) stops applying to the initial employee if a new certified agreement, covering the person as an employee of the EDQ employing office, takes effect.
- (4) This section applies despite any other Act.
- (5) In this section—

*certified agreement* see the *Industrial Relations Act 2016*, schedule 5.

*existing instruments* means the following instruments as they were in effect immediately before the commencement—

- (a) the Queensland Public Service Officers and Other Employees Award—State 2015;
- (b) the State Government Entities Certified Agreement 2023;
- (c) a public sector directive.

*new certified agreement* means a certified agreement made after the commencement.

*public sector directive*—

- (a) means a directive under the *Public Sector Act 2022*, schedule 2; and
- (b) includes—
  - (i) a joint directive made under section 226 of that Act; and
  - (ii) a directive continued under section 307 or 308 of that Act.

**240 Initial employee employed on fixed term contract by department before commencement**

- (1) This section applies to a person (an *initial employee*) who is employed after the commencement as an employee of the EDQ employing office if the person was employed by the department on a fixed term contract immediately before being employed by the EDQ employing office.
- (2) Nothing in this part affects the operation of the fixed term contract.

**241 MEDQ's first strategic and operational plans**

- (1) This section applies to MEDQ's first strategic and operational plans.
- (2) The period within which the board must prepare and give to the Minister a draft of each plan under new section 32E is 2 months after the commencement or another period agreed between the board and the Minister.
- (3) If a draft plan has not been agreed to within 2 months after the board has given it to the Minister, the Minister may give a direction under new section 32F(3) about the draft plan.
- (4) The period for which the strategic or operational plan applies is—
  - (a) the remainder of the financial year in which it is agreed to by the Minister; and

- (b) if MEDQ and the Minister agree the plan is also to apply for the following financial year, for that financial year.

## **242 MEDQ's first quarterly report**

New section 29 does not apply to MEDQ in relation to a quarter before the quarter in which its first operational plan is agreed to by the Minister.

## **243 Existing board member**

A person who, immediately before the commencement, holds appointment as a board member under former section 132(1)(b) or (d) is taken to be a board member under new section 132 until the board member's office is vacated under new section 134.

## **244 References to department before commencement**

- (1) This section applies if—
  - (a) a former provision mentioned the department; and
  - (b) a provision of this Act that provides for the same, or substantially the same, matter as the former provision mentions MEDQ.
- (2) In a document made under or relating to the former provision, a reference to the department, if the context permits, is taken to be a reference to MEDQ.

## **245 Publication on MEDQ's website**

- (1) This section applies if—
  - (a) under a former provision of this Act, a thing was required to be published on the department's website for or within a period; and
  - (b) under the provision as in force from the commencement, the thing is required to be published on MEDQ's website for or within a period.

- (2) The period for which the thing is published on MEDQ's website is taken to include any period before the commencement for which the thing was published on the department's website.

#### **246 Validation of particular extension and cancellation applications under Planning Act**

- (1) This section applies if, before the commencement—
  - (a) an extension application or a cancellation application was made or purportedly made under the Planning Act in relation to premises in an area; and
  - (b) the area was subsequently declared as a priority development area.
- (2) The application, and anything done in relation to the application, is taken to be, and always to have been, as valid and lawful as it would have been if new section 44 had applied to the application at the time it was made.

#### **247 Validation of particular applications and decisions under Planning Act**

- (1) This section applies if, before the commencement—
  - (a) an area was declared as a priority development area; and
  - (b) a change application, an extension application or a cancellation application was subsequently made or purportedly made under the Planning Act in relation to premises in the area; and
  - (c) the application was decided or purportedly decided under that Act.
- (2) The application, and anything done in relation to the application, is taken to be, and always to have been, as valid and lawful as it would have been if the priority development area had not been declared.



**248 Continued consideration of particular applications under Planning Act**

- (1) This section applies if—
  - (a) before the commencement, an area was declared as a priority development area; and
  - (b) before the commencement, a change application, an extension application or a cancellation application was subsequently made or purportedly made under the Planning Act in relation to premises in the area; and
  - (c) immediately before the commencement, the application had not lapsed or been decided under that Act.
- (2) Despite new section 45, the Planning Act continues to apply in relation to the application as if the priority development area had not been declared.

## Schedule 1 Dictionary

### section 6

***additional land***, for chapter 3, part 2, division 2B, see section 40G(2)(a).

***affected instrument***, for chapter 3, part 3A, see section 71AB(1).

***affordable housing*** see section 7B.

***amendment application*** see section 99(1).

***annual report***, for chapter 2, part 5, division 2, see section 32.

***applicable event***, for chapter 5, part 3B, see section 171D.

***applicable event notice***, for chapter 5, part 3B, see the *Planning Act 2016*, section 275E(2).

***applicable event period***, for chapter 5, part 3B, see the *Planning Act 2016*, section 275E(3)(a).

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

*Example of standing for an officer or employee of a department—*

the officer or employee's classification level in the department

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

***assessment benchmarks*** see the *Planning Act*, section 43(1)(c).

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

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

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

***boundary change regulation*** see section 40F(1).

**building work** means building work under the Planning Act.

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

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

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

**CEO** see section 32Q(1).

**change**, for chapter 3, part 6, division 4, see section 117A.

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

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

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

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

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

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

**communication**, for chapter 5, part 3A, see section 171B(1) and (2)(b).

**compliance statement**, in relation to a PDA development application, means a statement of the actions taken to comply with section 84 for the application.

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

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

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

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

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

***declaration regulation***—

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

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

***development approval***, for chapter 3, part 6, division 4, see section 117A.

***development scheme***, for a priority development area, other than a provisional priority development area, means a development scheme for the area, or part of the area, that takes effect under section 64, as amended from time to time.

***distributor-retailer*** means a distributor-retailer established under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

***draft provisional land use plan***, for a provisional priority development area, means the draft provisional land use plan for the area that takes effect under section 36(a).

***drainage work*** see the *Plumbing and Drainage Act 2018*, schedule 1.

***EDQ employee***, for chapter 3, part 8, see section 122A.

***EDQ employing office*** see section 32ZE(1).

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

***excluded land***, for chapter 3, part 2, division 2B, see section 40G(2)(b).

***executive officer*** means the executive officer of the EDQ employing office appointed under section 32ZK(1).

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

***former PDA-associated development***—

- (a) for chapter 3, part 2, division 4, subdivisions 2 and 3—see section 48(b); or
- (b) for chapter 3, part 2, division 4A—see section 51AR(a)(ii).

***former PDA land***—

- (a) for chapter 3, part 2, division 4, subdivisions 2 and 3—see section 48(a); or
- (b) for chapter 3, part 2, division 4A—see section 51AR(a)(i).

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

***freehold land*** see the *Land Act 1994*, schedule 6.

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

***gazette resumption notice*** see the *Acquisition of Land Act 1967*, schedule 2.

***government entity*** means an entity, other than a GOC, as defined under the *Public Sector Act 2022*, section 276.

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

***housing agreement*** see section 122AA(2).

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

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

***infrastructure agreement*** means—

- (a) an infrastructure agreement under the Planning Act; or

(b) a water infrastructure agreement.

**infrastructure charges notice**, for chapter 3, part 6, division 4, see section 117A.

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

**interim land use plan**, for a priority development area, other than a provisional priority development area, means an interim land use plan for the area, or part of the area, that takes effect under section 39 or 40AC.

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

(a) a use that is generally in accordance with a current rezoning approval given under—

(i) the repealed *Local Government Act 1936*, section 33(5)(k), to which section 33(5)(m) of that Act also applied; or

(ii) the repealed *Local Government (Planning and Environment) Act 1990*, section 4.5(6), 4.8(6), 4.10(6) or 8.10(9A); and

(b) a use that is a natural and ordinary consequence of making a material change of use of the premises if the change was lawfully made under this Act, the Planning Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997*.

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

**local consultative committee** see section 159A(a).

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

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

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

**MEDQ agent**, for chapter 3, part 8, see section 122A.

**minor administrative amendment**, of a provisional land use plan, interim land use plan or development scheme, means—

- 
- (a) an amendment of the plan or scheme if MEDQ is satisfied—
    - (i) the amendment is made merely to reflect a part of a planning instrument or a part of an instrument made under an Act other than the Planning Act; and
    - (ii) adequate public consultation was carried out in relation to the making of the part; or
  - (b) an amendment of the plan or scheme if MEDQ is satisfied the amendment is made merely to reflect a PDA development approval; or
  - (c) an amendment correcting or changing—
    - (i) an explanatory matter about the plan or scheme; or
    - (ii) the format or presentation of the plan or scheme; or
    - (iii) a spelling, typographical, grammatical or mapping error in the plan or scheme; or
    - (iv) a factual matter incorrectly stated in the plan or scheme, including, for example, the categorisation of development that has changed under a regulation; or
    - (v) a redundant or outdated term in the plan or scheme; or
    - (vi) inconsistent numbering of provisions in the plan or scheme; or
    - (vii) a cross-reference in the plan or scheme; or
  - (d) another amendment of a minor nature prescribed by regulation.

***minor boundary change*** see section 40F(1).

***minor change***, for chapter 3, part 6, division 4, see section 117A.

***nominated assessing authority*** means—

- (a) for a PDA development condition—the entity so nominated under section 88(a); or

- (b) for a provision about a PDA development approval—a nominated assessing authority for a PDA development condition of the approval.

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

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

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

***operational plan*** means MEDQ's operational plan made under chapter 2, part 5, division 3.

***operational work*** see the Planning Act, schedule 2.

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

***PDA accepted development*** see section 33(4).

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

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

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

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

- (a) on which PDA-associated development for the area is located or proposed to be located; and
- (b) as described in the declaration, or identified in the relevant development instrument, for the PDA-associated development.

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



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

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

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

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

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

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

***PDA exemption certificate*** means a PDA exemption certificate given under section 71A.

***PDA instrument change*** see section 40G(2)(a)(i).

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

***place renewal area*** see section 104AA.

***place renewal area declaration***, for chapter 3, part 4A, see section 104AC(1).

***place renewal framework*** see section 104AA.

***Planning Act*** means the *Planning Act 2016*.

***Planning Act approval*** see section 51AH.

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

***planning instrument change***—

- (a) for chapter 3, part 2, division 2B—see section 40G(2)(b); or
- (b) for chapter 3, part 2, division 3, subdivision 1—see section 41(2)(a) or (b); or
- (c) for chapter 3, part 2, division 3, subdivision 2—see section 42(2); or

- (d) for another provision—see section 40G(2)(b), 41(2)(a) or (b) or 42(2).

**plumbing work** see the *Plumbing and Drainage Act 2018*, schedule 1.

**premises** means—

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

**prescribed assessment manager**, for a development application under the Planning Act, see schedule 2 of that Act.

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

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

**properly made application** see section 82(3).

**properly made date**, for a PDA development application, see section 82A(2).

**proposer**, of a planning instrument change—

- (a) for chapter 3, part 2, division 2B—see section 40I(2); or  
(b) for chapter 3, part 2, division 3, subdivision 2—see section 42A(2).

**proposer's website** means—

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

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

***provisional land use plan***, for a provisional priority development area, means the provisional land use plan for the area that takes effect under section 36F, as amended from time to time under chapter 3, part 2, division 1, subdivision 2.

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

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

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

- (a) a department or part of a department;
- (b) a local government;
- (c) a government owned corporation;
- (d) a rail government entity under the *Transport Infrastructure Act 1994*;
- (e) another agency, authority, commission, corporation, instrumentality, office, or other entity, established under an Act for a public or State purpose;
- (f) a distributor-retailer.

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

***receiver***, for chapter 5, part 3A, see section 171A.

***reconfiguring a lot*** see the Planning Act, schedule 2.

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

***relevant approval***, for chapter 3, part 6, division 4, see section 117A.

***relevant area***, for an affected instrument, for chapter 3, part 3A, see section 71AA.

***relevant change***, for chapter 5, part 3B, see section 171F(1).

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

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

***relevant development instrument*** means—

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

***relevant document***, for chapter 5, part 3A, see section 171A.

***relevant infrastructure amount***, for chapter 3, part 6, division 4, see section 117A.

***relevant land*** means—

- (a) for a PDA development application—the land the subject of the application; or
- (b) for a PDA development approval or a development approval under the Planning Act—the land the subject of the approval.

***relevant local government***, for a priority development area, land or a PDA development application, means each local government in whose area the priority development area, the land or the land the subject of the application is located.

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

***remediate*** land or other property means—

- (a) rehabilitate the land or other property; or
- (b) restore the land or other property; or

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

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

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

**road** means—

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

**sending time**, for chapter 5, part 3A, see section 171B(3)(a).

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

**social housing** see section 7A.

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

**State interest** includes—

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

**State land** means—

- (a) unallocated State land; or
- (b) land held from the State under an interest less than fee simple.

**State planning instrument** see the *Planning Act 2016*, section 8(2).

**strategic plan** means MEDQ's strategic plan made under chapter 2, part 5, division 3.

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

**submission** means a written submission.

**submission period**—

- (a) for a draft provisional land use plan—see section 36A(c)(ii); or
- (b) for a proposed amendment, other than a minor administrative amendment, of a provisional land use plan—see section 36I(2)(b)(ii); or
- (c) for a proposed instrument for a planning instrument change under chapter 3, part 2, division 3, subdivision 2—see section 42E(2)(b)(ii); or
- (d) for a proposed development scheme—see section 59(b)(ii); or
- (e) for a PDA development application—see section 84(4)(d).

**superseding public sector entity**, for infrastructure, means the public sector entity that will have responsibility for the infrastructure after the land in relation to which the infrastructure is provided ceases to be—

- (a) in a priority development area; or
- (b) PDA-associated land for a priority development area.

**temporary planning instrument** see section 71AB(1).

**temporary use licence**, for chapter 5, part 3B, see section 171F(1).

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

**trunk infrastructure**, for chapter 3, part 6, division 4, see section 117A.

**unallocated State land** see the *Land Act 1994*, schedule 6.

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

**water approval** means a water approval under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

**water connection aspect** see section 51AR(c).

**water infrastructure agreement** means a water infrastructure agreement under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

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

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