State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations

Short title

The short title of the Bill is the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026 (the Bill).

Policy objectives and the reasons for them

The primary objective of the Bill is to amend the *State Development and Public Works Organisation Act 1971* (the SDPWO Act) to modernise and improve the Act, placing the Government in a position to evaluate, plan, enable and deliver the development of key economic drivers for Queensland, including the critical minerals sector and associated industrial activity.

The objectives of the amendments to be moved during consideration in detail of the Bill are to:

- preserve the integrity of recent reforms by prohibiting certain types of renewable energy projects from being declared State strategic projects;
- ensure a sensible approach to policy development for data centres by excluding the possibility of significant regulatory facilitation via State strategic project declaration;
- protect prime agricultural land by guaranteeing the need to obtain and comply with a regional interests development approval for certain projects;
- clarify how the regulating instrument to be used for State Development Area (SDA) assessable development, applies to SDA-related development declared by the Coordinator-General;
- clarify that other Acts or laws that would ordinarily regulate development do not apply to the extent they regulate the development that has been declared as SDA-related development by the Coordinator-General.

Achievement of policy objectives

The amendments to be moved during consideration in detail of the Bill seek to ensure the integrity of the Queensland Government's policy objectives for assessment and approval of renewable energy projects, maintain a uniform approach to regulatory approval of data centres, and provide appropriate protection of prime agricultural land from the impacts of resources and other regulated activities under the *Regional Planning Interests Act 2014*.

The amendments will also achieve the objectives of the Bill by improving Queensland's ability to plan for, service, and deliver industrial land in key strategic locations via SDAs, to provide ideal locations for investment in downstream processing, manufacturing and export facilities.

Declaration of State strategic projects

The Government's election commitment to ensure impact assessment for renewable energy projects was achieved by the *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025* and subsequent amendments to the *Planning Regulation 2017* (via 2025 SL No. 80 and 2025 SL No. 163).

To preserve the integrity of these reforms, major project-specific intervention in decision-making processes for certain types of renewable energy projects is being put off-limits by prohibiting them from being declared as State strategic projects.

Additionally, data centres will be prohibited from being declared State strategic projects. The approach taken is a broad restriction on data centre facilities of multiple different types, without discrimination between commercial use or research and development use, whether by the proponent or others. The ability to include data centres used for other purposes is allowed for by establishment of a regulation-making power.

This prohibition is intended to send a clear signal to the community and industry that data centres will not be the subject of significant regulatory facilitation under the SDPWO Act and are expected to progress through a standardised approval pathway. As further policy development is undertaken to determine the appropriate regulatory settings for development of data centres in Queensland, the prohibition may be expanded to include data centres used for purposes other than commercial or research and development functions.

Protecting prime agricultural land

To ensure that resource projects and other activities regulated by the *Regional Planning Interests Act 2014* (such as water storage dams and broadacre cropping) do not adversely impact on prime agricultural land, amendments to the restrictions on making modification orders will guarantee that these projects will always require a regional interests development approval (RIDA) under the *Regional Planning Interests Act 2014*.

SDA-related development declared by the Coordinator-General

The Bill as introduced contains drafting with respect to SDA-related development declared under section 85D that is unclear as to the regulating instrument that would apply to the assessment of SDA assessable development. The drafting of the Bill also does not remove the effect of other Acts or laws from regulating development that has been declared as SDA-related development.

The intent is that SDA-related development is regulated by the Coordinator-General in a similar manner, whether the SDA-related development is identified within an SDA development scheme or declared by the Coordinator-General under section 85D.

Typographical corrections

A small number of minor errors have been identified in the Bill which would benefit from correction. These errors are correctional and have no operational implications.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

The amendments to be moved during consideration in detail regarding State strategic projects and modification orders are to further the design of the regulatory facilitation framework.

Amendments in respect of SDA-related development are specifically to advance the policy intent for that mechanism, being to streamline assessment processes and provide certainty for development that is outside of, but that supports an SDA.

Estimated cost for government implementation

There are no anticipated costs for Government in implementing the amendments to be moved during consideration in detail.

Consistency with fundamental legislative principles

The *Legislative Standards Act 1992* defines fundamental legislative principles (FLP) as 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law.'

The amendments are generally consistent with FLPs. A small number of proposed amendments to be moved during consideration in detail of the Bill could depart from, or engage with the following principles:

(1) having sufficient regard to the institution of Parliament;

(2) impacts on decision making processes and appeal rights.

The relevant amendments relate to the regulation of SDA-related development declared by the Coordinator-General, and the prohibitions in relation to declaration of State strategic projects.

The fundamental legislative principle

Section 4(4) of the *Legislative Standards Act 1992* sets out the fundamental legislative principle pertaining to having sufficient regard to the institution of Parliament. This principle provides the delegation of the legislative power should be limited, only in appropriate cases and to appropriate persons; that exercise of the legislative power should be subject to the scrutiny of Parliament; and that only an Act of Parliament should authorise the amendment of another Act.

The departure

The potential FLP inconsistency arises from both Amendments 2 and 5, which respectively:

(a) prohibit declaration of State strategic projects that are:

  (i) certain solar farm, wind farm and battery storage facility development by reference to the way by which that development is prescribed to require social impact assessment under chapter 3, part 6B of the *Planning Act 2016*

  (ii) data centres performing certain functions for a commercial purpose, research and development purpose, or other purpose prescribed by regulation

(b) extend the Coordinator-General's power to identify certain development outside of a State development area as SDA-related development, where that declaration is made after the making of an approved development scheme.

(a) Prohibition of declaration of certain State strategic projects

(i) solar farm, wind farm and battery storage facility development

Amendment 2 would amend proposed new section 76EB in a manner that would effectively rely on prescribing certain development as requiring social impact assessment by way of the *Planning Regulation 2017.*

Whilst the requirements of social impact assessment are part of the *Planning Act 2016*, the provisions take effect based on prescribing certain development as requiring that assessment. The *Planning Regulation 2017* also defines 'solar farm', 'wind farm' and 'battery storage facility' (at schedule 24), upon which the amended proposed new section 76EB(5)(a) would rely.

This effectively results in a regulation having operative control over the application of a provision of the SDPWO Act.

(ii) data centres

Amendment 2 also prohibits declaration of data centres performing certain functions if they are for two express purposes (commercial, or research and development) or other purpose(s) prescribed by regulation. The capacity for the prohibition to be expanded by regulation provides for the operation of the SDPWO Act to be affected by making of subordinate legislation.

(b) SDA-related development

The drafting of the Bill as introduced provides for development identified as SDA-related development in an SDA development scheme, to be subject to existing section 84. The effect is that other Acts or laws which would otherwise regulate that development do not apply to the extent those Acts or laws regulate the development.

Amendment 5 would extend this to SDA-related development that has been declared by the Coordinator-General. As a result, an SDA-related development declaration by the Coordinator-General could affect the operation of Acts or laws made by Parliament in relation to the development, i.e. that the declaration would determine whether certain other laws (such as the *Planning Act 2016*) apply to that particular development.

Reason for departure

(a) Prohibition of declaration of certain State strategic projects

(i) solar farm, wind farm and battery storage facility development

The policy objective of the proposed prohibition, in respect of renewable energy projects, is to preserve the coherency of the social impact assessment and impact assessable development reforms for renewable energy projects.

The framework created by those reforms is reliant on the relationship between the *Planning Act 2016,* in setting out the system of social impact assessment and community benefit agreements, and the *Planning Regulation 2017* in prescribing the land use definitions for the relevant renewable energy activities and, subsequently, that development meeting those definitions is impact assessable development requiring a social impact assessment.

Therefore, the SDPWO Act must directly call up the relevant framework as established in the *Planning Act 2016* with certain aspects delegated to the *Planning Regulation 2017*, to ensure that the prohibition of declaring that development to be a State strategic project is directly aligned with the reformed framework for renewable energy projects.

(ii) data centres

Policy in respect of data centres is developing at a significant pace across all levels of government. Data centres are generally anticipated to either be for commercial provision of technology services, or for research and development such as training of large language models (noting that in practicality some data centres may propose a combination of commercial and research and development activities across different technology services). Any single or combination of purposes will be captured by the prohibition set out in the SDPWO Act.

However, given the pace of change, there may be purposes for development of data centres additional to commercial or research and development purposes. The regulation making power provides a level of flexibility to reflect development of data centre policy over time whilst retaining the core policy intent of the amendment, being to maintain a uniform approval framework for data centre of any type, without any significant regulatory facilitation under the SDPWO Act.

(b) SDA-related development

Amendment 5 has the potential to infringe on the sovereignty of Parliament to decide how and where laws apply. However, the proposed amendment is necessary to give effect to the policy intent for SDA-related development.

Without the proposed amendment, SDA-related development declared by the Coordinator-General would continue to be regulated in the current manner in addition to being regulated by the Coordinator-General. The operation of the current Bill drafting runs counter to the explicit purpose of SDA-related development to streamline development which is outside of, but that supports an SDA.

The removal of the effect of other Acts or laws is limited only to the extent they regulate the regulated development. Where those Acts or laws regulate or deal with other matters which are not part of the SDA-related development declaration, the Acts or laws continue in effect. The amendments to be moved during consideration in detail of the Bill will also clarify the instrument that will be used to regulate the development that is the subject of the SDA-related development declaration. The regulating instrument would be the relevant SDA development scheme, a statutory instrument made under the SDPWO Act and approved by Governor in Council.

The fundamental legislative principle

Section 4(3)(b) of the *Legislative Standards Act 1992* sets out the fundamental legislative principle pertaining to consistency with principles of natural justice. This principle includes the right to be heard, absence from bias and procedural fairness.

The departure

The potential FLP inconsistency arises from Amendment 5, which removes the effect of Acts or laws which regulate development, to the extent those Acts or laws regulate development declared to be SDA-related development. The SDA-related development would instead be regulated by the Coordinator-General under the relevant SDA development scheme. Decisions made by the Coordinator-General under an SDA development scheme are not subject to appeal, whereas the development may have been subject to appeal rights if it were dealt with under other legislation, such as development subject to impact assessment under the *Planning Act 2016*.

Reason for departure

The extension of the SDA decision making rules, including the absence of merits-based appeal rights, to SDA-related development is designed to ensure the purposes of the amendments are achieved. The purposes include that timely and coordinated decisions can be made on development that is necessary for the proper functioning of a SDA, or development that otherwise crosses jurisdictions and would be adversely affected by the current Acts or laws that apply to it.

The amendments to be moved during consideration in detail of the Bill will ensure that SDA-related development subject to a declaration will only be regulated by the Coordinator-General, not in addition to the usual development assessment framework. In making a decision on SDA-related development, the Coordinator-General has the ability to consider and give weight to any instruments that would, under another Act or law, have regulated the development. This provision ensures due regard is had to the usual criteria and rules that would have applied if not for development being identified as SDA-related development.

It is noted that development the subject of an SDA-related development declaration would not necessarily be afforded merits-based appeal rights under the usual jurisdiction. An example of this would be if the development were ordinarily subject to code assessment only under the *Planning Act 2016*. With respect to the principles of natural justice, the proposed amendment does not displace the need to afford natural justice to affected persons. For development regulated by the Coordinator-General under an SDA development scheme, this may include public consultation where required as part of the development assessment process. Decisions on SDA applications are subject to judicial review, as is the decision to declare SDA-related development.

Consultation

Consultation occurred with state government departments, peak bodies and government owned corporations on the Bill.

The amendments regarding SDA-related development partially address feedback received during the Committee enquiry process that clarity is needed as to how SDA applications for SDA-related development will be assessed and decided. Amendment 3, regarding RIDA, was also informed by the Committee process and subsequent engagement with key stakeholders.

The amendments in respect of SDA-related development align with the original policy intent for SDA-related development which was clearly communicated to stakeholders during consultation activities.

Consistency with legislation of other jurisdictions

The Bill, and therefore the amendments, are specific to Queensland and not uniform with or complementary to legislation of the Commonwealth or another State. Queensland's *State Development and Public Works Organisation Act 1971* remains the most comprehensive Act for integrated coordination, planning, assessment and facilitation of state significant development across jurisdictions. However, South Australia, Western Australia and the Northern Territory have recently passed legislation in their jurisdictions, establishing a selection of similar powers available under the *State Development Coordination and Facilitation Act 2025* (SA), *State Development Act 2025* (WA) and *Territory Coordinator Act 2025* (NT).

Notes on provisions

Amendment 1 Clause 13 (Replacement of pt 5 (Prescribed development))

Amendment 1 amends clause 13 of the Bill (in particular, proposed new section 58M(2)(b) of the SPDWO Act) to correct a typographical error by inserting the word ‘section’ before ‘58L(1)(c)’.

Amendment 2 Clause 17 (Insertion of new s 76EB)

Amendment 2 amends clause 17 of the Bill to insert additional subsections (4) and (5) to proposed new section 76EB of the SDPWO Act.

New subsection (4) would provide that, despite the Minister’s general power to declare projects to be State strategic projects, a project *cannot* be declared a State strategic project if it is:

- development for a solar farm, wind farm or battery storage facility, if that development requires social impact assessment under the *Planning Act 2016*; or
- a data centre operated for research and development, a commercial purpose, or another purpose prescribed by regulation.

A regulation may prescribe additional purposes for which data centres may be operated that result in the prohibition applying, beyond commercial or research and development purposes, should advances in policy or accepted understanding of data centre functions require doing so.

New subsection (5) provides definitions for terms used in new subsection (4).

Subsection (5)(a) corresponds to subsection (4)(a). The terms solar farm, wind farm and battery storage facility are defined by reference to the requirement for social impact assessment under section 106T of the *Planning Act 2016.*

The *Planning Regulation 2017*, part 5B provides that material change of use of premises for a solar farm with maximum instantaneous electricity output of 1MW or more, a wind farm, or a battery storage facility with maximum instantaneous electricity output of 50MW or more requires social impact assessment. This is contingent on the relevant land use meeting the respective definition of solar farm, wind farm or battery storage facility under the *Planning Regulation 2017*, schedule 24.

Notably, this means that it may be the case that a project with renewable energy activity components that *do not* trigger social impact assessment under the *Planning Act 2016* – such as a solar array for generation of electricity solely for on-site use only, or where the activity is not assessable development (e.g. on a mining lease for the purpose of the mining activity) – could still be declared a State strategic project.

Subsection (5)(b) corresponds to subsection (4)(b). For the SDPWO Act, a data centre would be a physical building or structure used wholly or mainly for the provision of the listed services/resources (that is, not a virtual system). This is because the focus of policy is on physical aspects such as the land use compatibility, power draw and water resource demand of these types of facilities.

The phrase ‘wholly or mainly’ is used so that projects which may include elements of a data centre as ancillary to their main purpose are not prohibited from being declared a State strategic project. An example may be development of a new advanced manufacturing facility requiring on-site compute resources and data storage facilities within an assembly line complex associated with the high-technology manufacturing techniques.

‘Compute resources’, ‘electronic data storage’ and ‘computer networking services’ are not defined so as to take their ordinary meaning and be non-exhaustive, as these terms can apply to a variety of activities and may evolve over time. For example, compute resources would include supply of the significant quantities of allocatable computational effort required for training and commercial deployment of large language models, but can also include supply of compute resources for other tasks such as video rendering or scientific modelling.

The purposes and services are inclusive; a data centre operated for multiple purposes and/or involving multiple services falls within the definition.

Amendment 3 Clause 22 (Insertion of new pt 5A, divs 3A and 3B)

Amendment 3 amends clause 22 of the Bill to insert an additional item to the list of key authorisations under proposed new section 76RJ(3). The additional item is a RIDA under the *Regional Planning Interests Act 2014*.

This amendment would enliven proposed new section 76RJ(1), a modification order cannot remove the requirement for a RIDA under the *Regional Planning Interests Act 2014* to be obtained and/or complied with, if a State strategic project is a resource activity or regulated activity under that Act and is proposing impacts on areas of regional interest.

Amendment 4 Clause 24 (Amendment of s 79A (Content of approved development scheme))

Amendment 4 amends clause 24 of the Bill, itself a proposed amendment of existing section 79A of the SDPWO Act. Amendment 4 would remove a reference to regulated development from existing section 79A, which is proposed to be a defined term in section 84. Section 79A would instead use more generic terminology.

Amendment 5 Clause 27 (Amendment of s 84 (Development under approved development scheme))

Amendment 5 amends clause 27 of the Bill to include additional provisions as part of the proposed amendment of existing section 84 of the SDPWO Act.

Section 84(1) would be amended to include a declaration under section 85D, with the effect that section 84(2) will also apply to SDA-related development declared under section 85D where that development is regulated development. Section 84 is also amended to revise the heading, to reflect that section 84 also deals with SDA-related development declared by the Coordinator-General.

Amendment 6 Clause 27 (Amendment of s 84 (Development under approved development scheme))

Amendment 6 amends clause 27 of the Bill to include a new definition in section 84 for regulated development. The amendment will define regulated development for a State development area to mean development that is in the SDA or is SDA-related development and is identified in the approved development scheme or in a declaration under section 85D as SDA assessable or SDA self-assessable development.

Amendment 7 Clause 31 (Amendment of s 84E (Deciding SDA application))

Amendment 7 amends clause 31 of the Bill as it proposes to amend section 84E, to provide that in deciding an SDA application that relates to SDA-related development, the Coordinator-General must consider the matters about how the development scheme applies decided by the Coordinator-General under section 85D.

Amendment 8 Clause 36 (Insertion of new s 85A and new pt 6, divs 1A and 1B)

Amendment 8 pertains to clause 36 of the Bill, particularly the proposed insertion of new section 85D.

The amendment would result in new section 85D(4) requiring the Coordinator-General to decide matters about how the approved development scheme for the relevant State development area will apply to development declared to be SDA-related development (i.e. SDA-related development *not* identified in an approved development scheme).

The intent of this additional subsection is that where declared SDA-related development is SDA assessable development, the instrument which the development will be assessed under is identified as part of the declaration process. This instrument will be a SDA development scheme, with any changes necessary to permit the assessment of the SDA-related development.

Amendment 9 Clause 36 (Insertion of new s 85A and new pt 6, divs 1A and 1B)

Amendment 9 is related to Amendment 8; in the same clause of the Bill, Amendment 9 would insert an additional subsection (ea) into proposed new section 85E, requiring the Coordinator-General to include the matters decided under amended new section 85D(4)(aa) to be included in the declaration of SDA-related development.

Amendment 10 Clause 36 (Insertion of new s 85A and new pt 6, divs 1A and 1B)

Amendment 10 amends proposed new section 85H, inserted by clause 36 of the Bill, to insert an additional subsection beneath subsection (1).

The proposed additional subsection (c) would enliven the new SDA change provisions upon the cessation of regulation of development under an approved development scheme in the circumstances where:

- that development is, up to that point, regulated under the scheme because it was declared SDA-related development by the Coordinator-General by way of gazette; and
- that declaration was amended (to the extent that an aspect of the development was removed from the declaration of SDA-related development), or revoked.

Amendment 11 Clause 44 (Insertion of new s 153EA)

Amendment 11 makes a minor typographical correction to clause 44 of the Bill, which proposes to insert new section 153EA.

The amendment inserts the word ‘and’ between the penultimate and ultimate items in a list at section 153EA(2)(a)(ii).

Amendment 12 Clause 58 (Amendment of sch 2 (Dictionary))

Amendment 12 adds the term ‘regulated development’ to the list in clause 58 of the Bill. The list is a list of proposed omissions from the current definitions contained in schedule 2 of the SDPWO Act.

The term ‘regulated development’ is being removed from schedule 2 because Amendment 6 will now define ‘regulated development’ for the purposes of section 84.