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

Explanatory Notes

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 SPDWO Act) to modernise and improve the Act, placing the government in position to evaluate, plan, enable and deliver the development of key economic drivers for Queensland, including the critical minerals sector and associated industrial activity.

To achieve that objective, the Bill:

(1) establishes new powers and improves existing functions for facilitating projects of significance to the State;

(2) modernises the SDPWO Act's infrastructure and land use planning and coordination frameworks for the resources and heavy industrial sectors; and

(3) improves, clarifies and streamlines existing processes and powers within the SDPWO Act to ensure its efficient and effective administration.

International investment attention on critical minerals is a major economic opportunity for Queensland, owing to the State's significant deposits of strategically important resources including copper, silicon, graphite, vanadium and permanent magnet metals.

The Government's objectives are to uplift the critical minerals sector, including by strengthening Queensland's attractiveness for investment through the implementation of a regulatory framework that enables projects to progress in a timely manner whilst providing for appropriate economic, social and environmental controls. A key part of this regulatory framework is the provision of modern and flexible infrastructure planning tools, project enablement powers and planning functions for downstream industrial activity.

The SDPWO Act is composed of a collection of powers, functions and systems that can be deployed to facilitate vital economic development, providing the tools to realise government objectives and capitalise on economic development opportunities as they arise. This Bill focusses on those legislative tools to be used to ensure the timely and efficient delivery of major economic development, such as critical minerals projects.

Achievement of policy objectives

The Bill will achieve its objective of having a regulatory framework that supports investment by amending the SDPWO Act to:

- introduce new facilitation powers for State strategic projects, the State significance notice and the modification order, that aligns Queensland's regulatory framework with other major development jurisdictions, particularly those with competitive critical minerals resources;
- provide greater utility for existing facilitation powers, including more flexible use of easement-creating powers and clearer processes for the step-in and notice to decide powers exercised by the Coordinator-General;
- reform the prescribed development infrastructure planning function to respond to contemporary challenges and practices for development of the State's resources regions;
- deliver greater streamlining of environmental impact assessments, especially for resource projects, through integration of the regional interests development approval process and transport infrastructure approval conditioning under the coordinated project framework;
- improve Queensland's ability to plan for, service, and deliver industrial land in key strategic locations via State Development Areas, to provide ideal locations for investment in downstream processing, manufacturing and export facilities;
- carry out operational amendments to ensure the SDPWO Act functions properly in the implementation of the key amendments; and
- make consequential amendments to other Acts to support the implementation of the principal amendments to the SDPWO Act.

The amendments are intentionally designed to be part of the government's toolkit to drive development of priority economic sectors, consistent with the overall design of the SDPWO Act. The amendments will allow for strategic intervention to catalyse economic development for critical minerals and other priority sectors, whilst preserving the integrity of existing regulatory frameworks and decision-making responsibilities as far as possible.

Alternative ways of achieving policy objectives

The policy objectives are best achieved by legislative amendment. Existing non-statutory coordination mechanisms lack enforceability, clarity of interaction with other Acts, and the ability to displace duplicative processes. Whilst non-regulatory approaches to identifying projects of significance, planning and coordination are possible and can be effective, providing for statutory means creates clear frameworks and allows for accounting of interactions with other Acts. Statutory mechanisms are necessary where it is intended existing processes be streamlined or exchanged for context-specific alternatives.

Together with aligned initiatives to plan for and invest in resource projects and infrastructure, the Bill is intended to strengthen Queensland's value proposition in pursuit of increasing Queensland's attractiveness for investment in critical minerals. This Bill will support that

investment by providing the systems and tools needed to deliver projects and, ultimately, deliver product to market.

Ongoing improvement is key to ensuring investment competitiveness, industry growth and community outcomes, whilst protecting the environment. Many of the amendments have been designed as a toolkit to overcome barriers to strategic development outcomes where the necessary use tests are met.

Estimated cost for government implementation

There are no immediate cost implications associated with implementation of the Bill.

The ability to prepare an infrastructure plan for State Development Areas and charge infrastructure charges establishes the ability to create frameworks in the future and will not by itself result in gathering of funds by government. Where a charging framework is implemented, funds will be onforwarded to councils and infrastructure service providers for the development of trunk infrastructure as appropriate.

The ability to waive application fees related to development applications within State Development Areas is a discretionary power, used in appropriate circumstances that would not result in failure to effectively recover government services costs.

The reform of the existing prescribed development framework establishes a function that may involve a decision of government as to whether to take on costs for delivery of infrastructure set out in the plan. This will be a matter of implementation in each instance, and there is no expectation within the Bill that such a step will be taken for every plan.

The infrastructure coordination plan made under part 5 does not provide a power for appropriation of government funds. If occurring, application of funding to a plan by government will flow from the standard Government processes for allocating appropriations. The Bill does not create any entitlement or expectation that the State will fund infrastructure identified in an infrastructure coordination plan.

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 Bill is generally consistent with FLPs. However, the following proposed amendments depart from, or particularly engage with, those principles:

(1) introduction of the power to make a modification order;

(2) repositioning and broadening of compulsory land acquisition powers for State strategic projects;

(3) delegation of powers to the SDPWO Act's Minister in relation to infrastructure coordination plans;

(4) creation of a power of entry for the Coordinator-General when undertaking a development investigation under the reformed part 5;

(5) establishment of SDA-related development and associated impact on decision making processes and appeal rights;

(6) modification of requirements for Governor in Council approval of land disposal within State development areas;

(7) validating provisions for properly made applications for SDA applications;

(8) the ability for the Coordinator-General to make rules outside of legislation about processes for SDA applications and requests;

(9) introduction of access authorities for prescribed projects, including authorising enabling works for State strategic projects;

(10) introduction of entry and investigation powers in relation to development offences;

(11) introduction of powers to enter land and take action to remedy contravention, including contraventions occurring before commencement; and

(12) the exclusion of certain rights of appeal, for decisions relating to State significance notices, modification orders, and infrastructure coordination plans.

These matters are addressed in detail below.

(1) Modification orders

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 FLP inconsistency arises from the introduction of a power enabling a modification order to affect the operation of an Act through subordinate legislation (clause 22 – section 76RH). This mechanism confers the legislative power on the Governor in Council predicated on the recommendation of the SDPWO Act Minister, and departs from the principle by expressly allowing for subordinate legislation to alter the operation of primary legislation (known as a Henry VIII clause).

Reason for departure

The modification order power is intended for circumstances where the timely progression of projects of State significance is required and is impeded by a duplicative, unanticipated or unreasonable statutory requirement or process. It is therefore the express intent and objective of the provisions to provide for a manner in which a delegated legislative power may be exercised to affect the operation of primary legislation.

The SDPWO Act is used as a key tool to drive the development of emerging industries, for which existing regulatory frameworks may not be adequate or appropriate. The Government's

policy intent is that the innovation, investment and economic benefits major projects can bring to the State should not be lost because of regulatory inflexibility, barriers or conflicts.

To ensure Queensland remains competitive with other Australian jurisdictions in attracting and enabling major projects, the modification order mechanism provides for responsiveness and certainty in addressing regulatory constraints. In particular, where traditional legislative amendment processes may delay commencement of emerging and priority projects of strategic significance to the State or would not be appropriate to deal with a single unique issue, modification orders can provide a rapid and targeted response.

The provisions cannot be made consistent with FLP. However, the Bill includes a series of threshold tests, criteria and process requirements to curtail the scope and scale of the inconsistency to the extent possible. These include:

1. Limited availability

   To ensure orders are only used for the projects of highest significance and importance to the State, an order can only be made for projects declared as State strategic projects under section 76EB of the SDPWO Act. The threshold ensures that only projects meeting the stringent declaration criteria can be subject of these powers. This is anticipated to be a limited number of projects of greatest importance to the State from both a Government and overall public benefit or utility perspective.

2. Ministerial responsibility

   Before recommending an order to the Governor in Council, the Minister must be satisfied that it is necessary and in the interests of the State; the order must satisfy a scenario-based criteria about duplication or an issue with the relevant law; the Minister must have regard to the objectives of the relevant legislation; and the Minister must be satisfied the order would not permit a significantly detrimental environmental effect that could not be prevented, controlled or mitigated by the imposition of conditions.

3. Mandatory consultation requirements

   To be fulsomely advised of and take into account the possible impacts of the order, the Minister must consult with the proponent of the State strategic project, the responsible Minister administering the Act affected by the modification order, and any local body the Minister considers would be affected by the making of the order. These consultation requirements ensure cooperation, interagency oversight, and informed decision making.

4. Exclusions and limitations

   To protect the integrity of regulatory systems, the order cannot remove the need to obtain or hold key approvals, or exclude or modify the application of provisions relating to Commonwealth-State bilateral environmental impact assessment processes, the rights and interests of Aboriginal peoples and Torres Strait Islander peoples, or provisions about revenue. These limits ensure the integrity of core safeguards in the development regulation system and prevent unintended interference with revenue-raising powers.

5. Parliamentary oversight through disallowance

   Because an order is made via subordinate legislation, it must be tabled in the Legislative Assembly. It is subject to Parliament's scrutiny, including by Parliamentary Committee, and may ultimately be disallowed in accordance with section 50 of the *Statutory Instruments Act 1992*. This ensures the making of the order remains ultimately accountable to Parliament.

(2) Compulsory acquisition of land for State strategic projects

The fundamental legislative principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review. Additionally, section 4(3)(i) of the *Legislative Standards Act 1992* sets out that, where legislation provides for compulsory acquisition of property, it should do so only with fair compensation.

The departure

Clause 39 amends the SDPWO Act to remove the private infrastructure facilities mechanism (the pre-amendment part 6, division 7 of the Act), and establish compulsory acquisition powers for similar purposes associated with the State strategic project declaration under part 5A. This allows for the Government to permit the acquisition of land for the purpose of conferring rights and interests in the acquired land in a private person for the purpose of carrying out a project other than of a public nature.

The acquisition comes about first by the declaration of the project as a State strategic project by the Minister (subject to the relevant criteria), followed by an application process by the proponent of that project that may culminate in a decision of the Minister to recommend making of a regulation to make the project a purpose for which land can be acquired. This is followed by the acquisition itself being carried out by the Coordinator-General. This involves exercises of both legislative and administrative powers. It is noted that the decision to declare a project to be a State strategic project is not a decision able to be subject to review under the *Judicial Review Act 1991*.

Reason for departure

Achievement of government policy objectives for projects of State significance requires a complete set of mechanisms to be available to appropriately respond to issues that might inhibit a project. This includes resolving issues of land tenure as they arise for projects of highest significance.

The SDPWO Act was amended in 2014 to include the private infrastructure facility mechanism (an evolution of the infrastructure facility of significance mechanism created in 1999), which allowed for the acquisition of land to be vested in the proponent for certain significant projects, including private projects. Such acquisitions were possible on an application basis provided the project met the definition of 'infrastructure facility'.

The core design of this mechanism has been maintained. Projects of significance may make an application for the Coordinator-General to acquire land for their project where commercial negotiations have been attempted and failed. Certain criteria must be met, a final unconditional offer must be made, and compensation is payable for the acquisition where it occurs. The

primary change is repositioning of this mechanism within the Act's architecture to be co-located with State strategic projects, being those projects of greatest significance to the State.

It is anticipated that the change will widen the types of projects (i.e. uses of land) for which the power may be deployed, but overall reduce the availability of the mechanism. This is because it will be predicated on being part of the very limited class of projects that are State strategic projects, rather than the former much broader class of 'infrastructure facilities' that could make an application. The acquisition is also not arbitrary; it must serve the purpose of enabling the State strategic project and is subject to a series of tests and satisfaction of application criteria by the proponent. Ultimate decisions about allowing the purpose of the acquisition and the taking of the land itself are made by the Governor in Council.

To reduce inconsistencies with FLP, the allowing of the project as a purpose for land acquisition will now be by regulation, providing for Parliamentary oversight and in part mitigating the fact that review of the originating State strategic project declaration is exempt from the application of the relevant parts of the *Judicial Review Act 1991* (ability to seek review in the Court's inherent jurisdiction notwithstanding). The standard framework of notice, negotiation, objection and compensation will be available to the landowner and any interest holders.

(3) Delegation of powers regarding infrastructure coordination plans

The fundamental legislative principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties dependent on administrative power only if the power is sufficiently defined and subject to appropriate review, and that administrative power should only be delegated in appropriate cases to appropriate persons.

The departure

The FLP inconsistency arises from clause 13, which amends part 5 of the SDPWO Act to install powers in the Minister to, variously, direct an investigation about infrastructure for resource projects be carried out (new section 56), to direct the preparation of an infrastructure coordination plan (new section 57), and to make decision about relevant planning applications, including whether to suspend, return and/or decide them (part 5, division 4, subdivision 2). Versions of these powers were formerly vested in the Governor in Council.

Reason for departure

The former part 5 was outdated and generally inconsistent with modern legislative drafting approaches and design principles. It relied heavily on decisions of an administrative character being made by the Governor in Council with limited (if any) criteria and significant discretion. This is not considered necessary or appropriate with respect to the overall policy intent of the reform, which is to modernise and improve functionality for use in a contemporary context.

It is appropriate that such powers instead vest in the Minister. A Minister exercises their powers as part of the executive government to give effect to government policy objectives within the framework and overall purposes of legislation. Ministers are accountable to Parliament by the convention of Ministerial accountability.

In the context of these reforms, decisions that can be made and directions given by the Minister are shaped by new, defined criteria that requires the Minister to take into account the objectives of the statutory scheme, the State's interest, evidence of facts, the views of impacted persons, and also allows consideration of other relevant matters, such as criteria for development applications set out in other statutory instruments.

A Minister's ability to decide a relevant planning application (rather than only suspend or return it to the original decision maker) is only enlivened once an infrastructure coordination plan has been made by subordinate legislation, providing that such changes only take effect subject to Parliament's scrutiny. Although the Minister has significant latitude to decide such an application, they must have regard to the purposes of part 5 of the SDPWO Act, the in-force infrastructure coordination plan, any submissions, and any matters prescribed by regulation. To ensure the principle of Ministerial accountability is observed, decisions made by the Minister on such applications must be tabled in Parliament, along with a statement of reasons.

The Minister's administrative decisions are subject to the *Judicial Review Act 1991*, providing for an effective pathway of review for persons affected by such decisions.

Whilst the Minister may now direct an investigation and the preparation of an infrastructure coordination plan (rather than the Governor in Council), the approval of the plan itself has been elevated to be made by regulation to provide a high level of Parliamentary oversight.

(4) Power of entry for carrying out a development investigation under part 5

The fundamental legislative principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties dependent on administrative power only if the power is sufficiently defined and subject to appropriate review, and that administrative power should only be delegated in appropriate cases to appropriate persons.

The departure

The FLP inconsistency arises from clause 13, which amends the former part 5 of the SDPWO Act to empower the Coordinator-General to undertake a development investigation. Particularly, the Coordinator-General gains land entry powers for such an investigation pursuant to new section 56F.

Reason for departure

Undertaking an investigation may require the Coordinator-General to access land to undertake surveys and studies. Inability to access land has the potential to significantly hamper efforts to investigate proposed development and collect the data inputs needed to later develop an infrastructure coordination plan.

To minimise impacts on owners to the extent possible, procedure requirements must first be met prior to an entry. The Coordinator-General must give written notice of their intention to enter land, the power and purposes under which the entry is proposed, and the activities intended to be carried out whilst on the land. The Coordinator-General may only enter the land with the owner's consent, or otherwise after a period of 7 days elapses. This is intended as a last-resort option, only contemplated where access to the land is essential to the investigation and negotiations for entry by consent have failed.

The owner may claim compensation for any loss or damage suffered from the entry and temporary use of the land.

(5) Establishment of SDA-related development

The fundamental legislative principle

Section 4(3)(b) of the *Legislative Standards Act 1992* provides that legislation should be consistent with the principles of natural justice, which as derived from common law includes the right to be heard, absence of bias and procedural fairness.

The departure

The potential FLP inconsistency arises from clauses 24 and 36, which permit the Coordinator-General to identify certain development outside of a State development area as SDA-related development. The clauses permit the Coordinator-General to assess and decide subsequent applications for the SDA-related development in accordance with the decision-making process under the SDPWO Act. Decisions made by the Coordinator-General under Part 6 of the SDPWO Act are not subject to appeal, whereas the development may have been subject to appeal if it were dealt with under other legislation, such as the *Planning Act 2016* (Planning Act).

Reason for departure

The extension of the State development area decision making rules, including the absence of merit 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 State development area, or development that otherwise crosses jurisdictions and would be adversely affected by the current Acts or laws that apply to it.

It is noted that development the subject of an SDA-related development identification (clause 24) or declaration (Clause 36) 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.

In making a decision on an SDA-related development, clause 31 gives the Coordinator-General 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. Provisions have also been included to ensure that consultation occurs with the usual regulatory authority (typically the local government or port authority) prior to the development being identified as SDA-related development. The intent of this provision is to ensure that the party is given adequate notice and is able to advise on its concerns relating to the SDA-related development declaration.

Allowing decisions on SDA-related development to be subject to extended merits review processes could delay project progression and undermine the intent of the framework. The review process would also be unique to the portion of the project that sits outside of the boundary of the State development area due to the current function of the Act. Whilst merit-based reviews of SDA-related development decisions are limited, judicial review under the

Judicial Review Act 1991 is still available, and the Supreme Court of Queensland's inherent jurisdiction remains.

(6) Modifying requirements for disposal of land within State development areas

The fundamental legislative principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The departure

Clause 26 amends section 83 to remove the need for the Coordinator-General to seek Governor in Council approval to dispose of land in a State development area that was compulsorily acquired under section 82, where the disposal is for the purposes of implementing the approved development scheme. Permitting the Coordinator-General to dispose of land to implement an approved development scheme may not be considered sufficiently defined per section 4(3)(a) of the *Legislative Standards Act 1992*.

Reason for departure

Current provisions in the SDPWO Act require that land disposal may only occur for the purposes of implementing the approved development scheme and on approval from the Governor in Council. The intent of the change is to address two issues, namely that the Coordinator-General:

- may only dispose of land where for the purposes of implementing the approved development scheme, potentially resulting in a legislative impasse where the Coordinator-General cannot dispose of land that has been compulsorily acquired; and
- must seek Governor in Council approval for each land sale, disposal or lease exceeding 4 years, where the original land was acquired under section 82.

Section 83 addresses these issues, by providing that the Coordinator-General can dispose of land either for the purposes of implementing the approved development scheme or with the approval of the Governor in Council. The removal of the requirement to seek Governor in Council approval to dispose of land, will allow the Coordinator-General to more efficiently manage and transact on land which was compulsorily acquired within a State development area. This extends to long term leasing, and disposal of new lots created as a result of land that was acquired and subsequently subdivided, both situations which currently require Governor in Council consideration.

Allowing the Coordinator-General to dispose of land for the purposes of implementing an approved development scheme could be seen as not sufficiently defined for the purposes of section 4(3)(a) of the *Legislative Standards Act 1992*, as the scope of disposal under the approved development scheme is not identified in the Act. However, it is noted that the test to dispose of land, that it be for implementing the approved development scheme, already exists in the SDPWO Act.

Under the SDPWO Act, the Coordinator-General is given wide ranging powers to plan and manage land and development within a declared State development area, which was declared

in the public interest. Permitting the Coordinator-General to dispose of land for the purposes of implementing the policy intent of the State development, as expressed through the Governor in Council approved development scheme is considered a practical solution to effective duplication of processes. Where there are no major issues of a financial, statutory or policy nature at issue, it is reasonable to accept that a disposal can follow the event of acquisition if the purpose of both actions is consistent. Where the disposal of land could not be clearly seen to be for the purposes of implementing an approved development scheme, the provisions of section 83 require the Coordinator-General to seek Governor in Council approval.

(7) Validating provisions for properly made SDA applications

The fundamental legislative principle

Section 4(3)(g) of the *Legislative Standards Act 1992* provides that retrospective legislation may interfere with the rights and liberties of an individual and where it has an adverse affect on rights and liberties, or imposes obligations, then its impacts should be justified. However, retrospective legislation may be justified if it is beneficial, curative or validating in nature.

The departure

Clause 30 amends section 84D of the SDPWO Act to allow the Coordinator-General to waive part or all of an SDA application fee prior to lodgement. This change raises a potential fundamental legislative principle issue, in that it will apply to SDA applications made before commencement, and any resulting decisions in relation to those SDA applications under clause 57.

Reason for departure

The intent of the retrospective application of section 84D is to ensure that SDA applications previously accepted by the Coordinator-General without the full fee being paid, are not considered invalid by the operation of section 84D. Whilst the retrospective application of clause 30 departs from the fundamental legislative principle that legislation operates prospectively rather than retrospectively, the retrospectivity is considered justifiable as it is beneficial, in that it does not operate to the detriment of applicants, addresses a legislative anomaly, and provides certainty as to the validity of previous SDA applications which were accepted without the full prescribed fee being paid.

(8) Power to make State development area rules

The fundamental legislative principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties dependent on administrative power only if the power is sufficiently defined and subject to appropriate review, and that administrative power should only be delegated in appropriate cases to appropriate persons.

The departure

The FLP inconsistency relates to clause 25, which allows for the Coordinator-General under part 6 to produce a document, for approval by the Minister and Governor in Council, which sets out rules about processes and requirements for applications and requests within a State development area. These rules currently exist in State development area development schemes, which are also approved by the Governor in Council. The new rules document would have

effect for State development areas, where a development scheme for that State development area does not include rules about a particular process.

Reason for departure

The State development area rules may include, but are not limited to, the process and requirements to make, assess and decide SDA applications and requests. Currently, each State development area development scheme establishes the rules for the processes that apply for that State development area. Variations to the processes exist in each development scheme, which reflect the unique conditions of that State development area, and the policies and drafting style that existed at the time the development scheme was prepared. Variations in rules across different State development areas have the potential to cause confusion for proponents, government agencies and the broader community. The State development area rules are intended to provide greater certainty to stakeholders regarding development decisions within an SDA and are proposed to be made in a similar manner to SDA development schemes.

(9) Access authorities

The fundamental legislative principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The departure

The FLP inconsistency arises from clause 46, which establishes a power for the Coordinator-General to allow a person to enter land and carry out certain activities where the consent of the owner or occupier could not be obtained. This is inconsistent with an owner or occupier's usual right to quiet enjoyment.

Reason for departure

The clause expands an existing ability to grant a land entry authority under the former part 6, division 7, subdivision 1, to allow such an authority to be granted for a prescribed project. It also includes the ability for proponents for State strategic projects to undertake enabling works for the project, subject to Governor in Council approval.

The power is a 'last resort' function, only to be deployed on projects that have been identified as significant to the State (via the prescribed project/State strategic project declaration) where other avenues of land access have failed.

To minimise the inconsistency to the extent possible:

- obtaining an access authority will only be possible for prescribed projects whose declaration is current (i.e. has not expired), limiting their availability;
- the above is also true in respect of State strategic projects that seek to undertake enabling works;
- an application must be made that must be accompanied by a fee and contain information to assist the Coordinator-General in evaluating the request;

- an application must include information about the applicant's reasonable efforts to negotiate with the owner;
- the Coordinator-General, on receipt of a properly made application, must advise the owner of the land about the application, invite a submission and make reasonable efforts to consult with them. By this process the owner may provide their view as to the applicant's efforts to negotiate access and be afforded natural justice;
- where an authority is granted, it may be granted subject to conditions to protect and prevent interference with the owner to the extent possible and allow only the activities considered essential for investigation or enabling of the project;
- an access authority places strict requirements on its holder to give notice of entry, ensure entering persons hold appropriate identification, and identify themselves to the owner on request;
- an owner is entitled to request rectification for any damage or loss caused in the course of the accessing and use of the land, and may claim compensation for damage or loss that is not rectified;
- the Coordinator-General may hold a bond from the holder of the authority that may be applied to the costs of rectification or compensation arising from the entry and activities carried out under the authority.

(10) Entry and investigation powers in relation to development offences

The fundamental legislative principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The departure

The FLP inconsistency arises from clause 47, which establishes powers for officers appointed by the Coordinator-General to enter land and undertake investigatory activities in relation to suspected contraventions of the SDPWO Act. The clause significantly expands the compliance powers available to the Coordinator-General, and their officers including entry to land with or without consent, investigation, dealing with evidence, and other offence matters. This is potentially inconsistent with an owner or occupier's usual right to quiet enjoyment.

Reason for departure

The changes to Part 7A are necessary to ensure that suspected development offences under the SDPWO Act are appropriately investigated and, where confirmed, are able to be appropriately dealt with. In this instance, an occupier's right to quiet enjoyment must be balanced against the rights of the community for safety from harm or adverse effect resulting from a development offence. Powers in relation to investigation and seizure of evidence may only be accessible following lawful entry onto land the subject of the suspected offence. To minimise the inconsistency to the extent possible, entry onto land for Part 7A:

- may only be with consent of an occupier, with a warrant for the entry, or for limited purposes where the place is a public place or a place of business which is open;

- may only be undertaken by an authorised officer who is appropriately qualified and appointed by the Coordinator-General for the purposes of Part 7A;
- is limited to the reasons for the entry, as specified in the consent agreement or warrant, and where by consent is subject to any conditions from the occupier;
- is predicated on a reasonable suspicion that a development offence has occurred which require entry and investigation to take place.

The entry and investigation provisions in clause 47 align with and have been modelled on other planning jurisdictions in Queensland, including under the Planning Act.

(11) Enter land and take action to remedy contravention

The fundamental legislative principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should make rights and liberties dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The departure

The FLP inconsistency arises from clause 51 which permits an authorised officer to enter land and take action required under an enforcement notice. This clause expands the compliance powers available to the Coordinator-General, and their officers to deal with a development offence, where a person fails to comply with an enforcement notice. The actions of an authorised officer in entering land and remedying an enforcement notice, are potentially inconsistent with an owner or occupier's usual right to quiet enjoyment.

Reason for departure

Clause 51 is necessary to ensure the effect of an enforcement notice is upheld where the recipient does not comply with the notice. In this instance, an occupier's right to quiet enjoyment must be balanced against the rights of the community for safety and from harm or adverse effect resulting from a development offence. Clause 51 permits an authorised officer to take action to protect the broader rights of the community from any adverse effects of a development offence. To minimise the inconsistency with the principle to the extent possible, clause 51 may only utilised:

- by an authorised officer who is appropriately qualified and appointed by the Coordinator-General for the purposes of Part 7A; and
- after giving at least 7 days notice to the occupier, and if the occupier is present when the action to be taken after making reasonable attempts to seek consent from the occupier; or
- where an enforcement notice has already been issued, which requires the Coordinator-General to reasonably believe a person is contravening a requirement of the SDPWO Act.

The power introduced under clause 51 aligns with and has been modelled on other planning jurisdictions in Queensland, including under the Planning Act.

(12) Exclusion of rights of appeal

The fundamental legislative principle

Section 4(3)(b) of the *Legislative Standards Act 1992* provides that legislation should be consistent with the principles of natural justice, which as derived from common law includes the right to be heard, absence of bias and procedural fairness.

The departure

The FLP inconsistency arises from clauses 13 and 21, which insert new sections 58N, 76RF and 76RN. These provisions cause decisions made pursuant to a State significance notice or a decision made by the Minister about a relevant planning application under part 5 to not be subject to appeal or review, and also allow for a modification order to exclude or modify appeal or review rights.

The FLP inconsistency also arises from clauses 24 and 36 which relate to the identification and declaration of SDA-related development which extends outside of the boundary of a State development area. Decisions on applications made for SDA-related development are not open to merit based appeals, which may have been possible had the development not been identified or declared as SDA-related development.

Reason for departure

The removal of certain review and appeal rights is designed to ensure that the purposes of the amendments are achieved, particularly the timely and coordinated delivery of projects of strategic significance to the State. Allowing such decisions to be subject to extended merits review processes could delay project progression and undermine the intent of the framework. This reflects the same rationale underpinning the existing provisions of the SDPWO Act, including for State Development Areas, prescribed projects and State strategic projects (the former critical infrastructure projects), where certain decisions are expressly not subject to appeal to support statutory timeframes and delivery certainty.

Limiting review and appeal also mitigates the possibility of vexatious or unmeritorious litigation that could frustrate or delay projects identified as being in the interests of the State. Comparable restrictions exist elsewhere within the planning system, such as where the Planning Minister "calls in" a decision on the basis of State interest; such decisions similarly cannot be appealed to the Planning and Environment Court.

While amendments limit some avenues of merits review, they do not remove the ability to seek judicial review under the *Judicial Review Act 1991* or the Supreme Court of Queensland's inherent jurisdiction. Affected persons retain the right to seek relief through this jurisdiction where appropriate.

Consultation

Consultation occurred with state government departments, peak bodies and government owned corporations. Peak bodies and government owned corporations included:

- Local Government Association of Queensland
- Queensland Resources Council
- Association of Mining and Exploration Companies

- Australian Energy Producers
- Planning Institute of Australia
- Urban Development Institute of Australia (Queensland)
- Coexistence Queensland
- Queensland Major Contractors Association
- Infrastructure Association of Queensland
- Powerlink Queensland
- Energy Queensland
- Seqwater
- Sunwater
- Port of Townsville Limited
- North Queensland Bulk Ports Corporation
- Gladstone Ports Corporation Limited.

Individual briefings were provided on the amendments with a draft of select parts of the Bill available for review, namely those parts that were significant new powers or had particular relevance to utility providers. Draft provisions were provided for review where amendments introduced new or expanded powers relevant to stakeholders' roles.

Stakeholders were supportive of the policy intents of the amendments, particularly opportunities for streamlining. The Local Government Association of Queensland encouraged consultation with local councils when considering exercise of powers under the SDPWO Act. Importantly, consultation with local councils has been built into the design for the modification order, State significance notice where they are the affected decision maker, and infrastructure coordination plans framework.

Consistency with legislation of other jurisdictions

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).

The modification order has been modelled on the mechanism of the same name in Western Australia's *State Development Act 2025* and the exemption notice established by the Northern Territory's *Territory Coordinator Act 2025*. The South Australian facilitation certificate mechanism under the *State Development Coordination and Facilitation Act 2025* also includes similar features.

The State significance notice has been modelled on the due regard and joint decision notice in Western Australia's *State Development Act 2025*. The introduction of these new powers will align where appropriate with these jurisdictions, which have existing safeguards around tests for use, decision-making authority for use of the powers, tabling in Parliament and disallowance.

Whilst Northern Territory introduced equivalent prescribed development powers modelled on Queensland's existing prescribed development function, they have simplified and contemporised the function. South Australia has also adopted a State development area framework that blends conceptual elements of State development areas and prescribed development under the SDPWO Act. Queensland's amendments to reform the prescribed development and State development area frameworks seek to simplify and contemporise to better reflect and integrate with the modern system of planning and approvals.

Notes on provisions

Part 1 Preliminary

Clause 1 Short title

Clause 1 states that the Act may be cited as the *State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Act 2026*.

Part 2 Amendment of State Development and Public Works Organisation Act 1971

Clause 2 Act amended

Clause 2 provides that Part 2 amends the *State Development and Public Works Organisation Act 1971*.

Clause 3 Insertion of new s 24A

Clause 3 inserts new section 24A, which is a clarifying provision for part 4 of the SDPWO Act. The section provides that, where context permits, a reference to a project within part 4 may be taken to be a reference to a coordinated project (as that term is defined in schedule 2).

For example, the reference to 'the project' at section 32(1) of the SDPWO Act can be taken to be a reference to the relevant coordinated project for which an EIS is required. Obversely, context provides that references to 'the project' under section 27AB could not as yet refer to a coordinated project, as that section is about applying for a coordinated project declaration.

This amendment is associated with amendment of the definition of the term *project* as defined in schedule 2 and amended by clause 58.

Clause 4 Amendment of s 26 (Declaration of coordinated project)

Clause 4 amends section 26 to insert new subsections providing that, if a project involves an activity requiring a regional interests development approval under the *Regional Planning Interests Act 2014* (RPI Act), or an approval or decision identified in new section 49N(b) made under the *Transport Infrastructure Act 1994* (TI Act), the Coordinator-General must give a copy of the gazette notice about the declaration of the coordinated project to the chief executive administering those Acts, as well as the relevant railway manager where the project involves an approval under section 255(1)(a) of the TI Act (i.e. interference with a railway).

This provision ensures that these decision-makers are aware of the commencement of the impact assessment process and the effects it may have on relevant applications made under the Acts they administer.

Clause 5 Amendment of s 34D (Report evaluating EIS)

Clause 5 amends section 34D to provide that the Coordinator-General may state conditions for the project when evaluating an EIS, subject to new sections 49L and 49O. These sections are the powers to state conditions for a regional interests development approval under the RPI Act and an approval or decision identified under new section 49N(b) made under the TI Act.

Clause 6 Amendment of s 34G (Preparation of draft IAR)

Clause 6 amends section 34G to provide that, when a proponent prepares their draft impact assessment report (IAR), it is to include a statement about whether or not a regional interests development approval that would be notifiable is required. This provides consistency with existing section 34G(2)(c). Where such a notice is given, the draft IAR must be publicly notified.

Clause 7 Amendment of s 34L (Report evaluating IAR)

Clause 7 amends section 34L to provide that the Coordinator-General may state conditions for the project when evaluating an IAR, subject to new sections 49L and 49O. These sections are the powers to state conditions for a regional interests development approval under the RPI Act and an approval or decision identified under new section 49N(b) made under the TI Act.

Clause 8 Amendment of s 35A (Lapsing of Coordinator-General's report)

Clause 8 amends section 35A to insert new subsections providing that the Coordinator-General's report for the environmental impact statement (EIS) or impact assessment report (IAR) does not lapse if, before the 3-year default lapse period or other stated or implied time, the proponent applies for:

- a regional interests development approval under the RPI Act; or
- an approval or decision identified under new section 49N(b) made under the TI Act.

These provisions are intended to ensure that the decision maker can have regard to the Coordinator-General's report (including any stated conditions) in deciding the application, even if the report would have otherwise expired.

Clause 9 Amendment of s 35I (Coordinator-General's change report)

Clause 9 amends section 35I to provide that the Coordinator-General may state conditions for the project when evaluating a change, subject to new sections 49L and 49O. These include the ability to state conditions for a regional interests development approval under the RPI Act or an approval or decision identified under new section 49N(b) made under the TI Act.

Clause 10 Amendment of s 37 (Applications for material change of use or requiring impact assessment)

Clause 10 amends section 37 to correct an error, being that section 34K(3) should also be referenced in section 37(1)(c)(ii). The result of the amendment is that a properly made submission about either the draft EIS, draft IAR, or any additional information required by the Coordinator-General for the project, that was publicly notified under the coordinated project process is taken to be a properly made submission about the application for the Planning Act, chapter 3.

Clause 11 Insertion of new pt 4, divs 6D and 6E

Clause 11 inserts new division 6D (sections 49H to 49M) and division 6E (sections 49N to 49P) into part 4 of the SDPWO Act.

Division 6D Relationship with Regional Planning Interests Act 2014

Division 6D provides for the application of Coordinator-General's report to a regional interests development approval under the RPI Act, including the ability to state conditions for such an approval and modifications to the process of assessing and deciding those approvals.

Section 49H Application of division

Section 49H sets out the scope of division 6D. The division applies only if a project involves an activity requiring a regional interests development approval under the RPI Act, and an application has been made for the activity under that Act.

Section 49I Definitions for division

Section 49I inserts new definitions for *assessment application* and *regional planning chief executive* to give effect to the new division.

The *regional planning chief executive* is the chief executive of the department which administers the part of the RPI Act that deals with the assessment and grant of regional interests development approvals, as that is the part of the RPI Act relevant to the coordinated project process.

Section 49J Regional planning chief executive to be given copy of Coordinator-General's report

Section 49J requires the Coordinator-General to provide a copy of the Coordinator-General's report to the regional planning chief executive. This provides the chief executive with a copy of the Coordinator-General's considerations, directions and conditions in respect of the coordinated project's impacts on areas of regional interest.

Section 49K Modified application of provisions of Regional Planning Interests Act 2014

Section 49K provides for the relationship between the coordinated project process under Part 4 of the SDPWO Act and the regional interests development approval process under the RPI Act. These provisions are intended to streamline the application process by recognising public notification and government coordination activities undertaken for a coordinated project as achieving the objectives of the notification and referral stages for a regional planning interests application.

Subsection (1) enlivens the section if the Coordinator-General has provided a copy of the Coordinator-General's report to the chief executive administering the RPI Act.

Subsection (2) provides that the final EIS or IAR for the coordinated project is taken to be the report assessing the activity's impact on an area of regional interest mentioned in section 29(b) of the RPI Act, removing the requirement to prepare a substantively identical report and mitigating the potential for inconsistency with the project as proposed and assessed via the SDPWO Act.

To reduce duplication, recognise the comprehensive consultation required under an environmental impact assessment and avoid potential confusion, subsection (3) provides that the assessment application is not and cannot be made notifiable under section 34 of the RPI Act, where the draft EIS or draft IAR for the coordinated project is publicly notified under the SDPWO Act.

Although there is resultingly no public notification of the regional interests development application itself, subsection (4) provides that a properly made submission for a draft EIS or draft IAR that was publicly notified for the coordinated project is taken to be a properly made submission for the regional interests development application. Together with subsection (9), this ensures that the chief executive has regard to the views of submitters in making the decision about an approval.

Subsection (4) also provides that only the owner of the land that is the subject of the project may request to inspect a submission or obtain a copy of it. This is appropriate given the direct impact on the landowner. Other stakeholders may consult the EIS, IAR, additional information and/or Coordinator-General's evaluation or change report(s) if seeking information about issues raised in submissions and how they have been addressed.

Subsections (5) and (6) effectively provide that the assessment application is not referable. The assessing agency's assessment process does not apply, and in making the decision about a relevant application or amendment to an approval, the requirements to give a decision notice to an assessing agency are consequently removed. This is to reflect that the coordinated project process satisfies the referral function by coordinating relevant departments of government to provide information and assistance to the Coordinator-General about an EIS or IAR, which is subsequently incorporated into the Coordinator-General's evaluation and conditioning.

Subsection (7) prevents the giving of a requirement notice that could conflict with the objective of subsection (3).

Subsection (8) provides that the decision stage for the regional interests development application only commences when the Coordinator-General provides a copy of the Coordinator-General's report to the chief executive administering the RPI Act. Despite any prescribed timeframe under the RPI Act, the regional planning chief executive has 20 business days to decide the application, or a longer period of which the applicant is notified.

Subsection (9) requires that the regional planning chief executive must consider properly made submissions for a draft EIS, draft IAR or additional information for the coordinated project in deciding the application. The chief executive will consider properly made submissions about the resource or regulated activity's impact on an area of regional interest in the context of the matters for a decision under the RPI Act.

Subsection (10) provides that the Coordinator-General's report must be taken into account by the regional planning chief executive in making a decision under section 49(1) of the RPI Act.

Section 49L Application of Coordinator-General's report to deciding assessment application

Section 49L provides for the application of the Coordinator-General's report in deciding the regional interests development application.

Subsections (1) and (2) provide that the Coordinator-General's report may state that the regional interests development application must be:

- approved in whole, with or without conditions;
- approved in part, with or without conditions; or
- refused.

Subsection (3) requires that the Coordinator-General's stated conditions must be consistent with section 50 of the RPI Act, which establishes the grounds on which a condition can be imposed on a regional interests development approval. This is to ensure that the regional planning chief executive is not required to impose a condition stated by the Coordinator-General which cannot lawfully be imposed under the RPI Act.

Subsection (4) provides that the regional planning chief executive must comply with the directions in the Coordinator-General's report in relation to subsections (1) and (2). Subsection (5) clarifies that, despite the direction given under subsections (1) or (2), the Coordinator-General's report does not limit the chief executive's ability to consider the application and impose additional conditions on the regional interests development approval, provided those conditions are not inconsistent with the Coordinator-General's stated conditions.

Subsection (6) requires that the Coordinator-General's report may state that the regional interests development application must be refused only if the Coordinator-General is satisfied that the project's environmental effects cannot be adequately addressed. Subsection (7) provides that the Coordinator-General's report must give reasons where it states that a regional interests development approval must not be given.

Subsection (8) resolves any possible conflicts between a Coordinator-General's condition stated under section 49L and conditions imposed by the chief executive under section 48(2) of the RPI Act, by making the Coordinator-General's condition(s) prevail to the extent of the inconsistency.

Section 49M Application of Coordinator-General's change report to assessment of requested amendment application

Section 49M provides for the relationship between the Coordinator-General's change report under Part 4 of the SDPWO Act and an application to amend the regional interests development approval under the RPI Act. These provisions are intended to prevent duplicative process steps for an amendment application where that stage is satisfied under Part 4 of the SDPWO Act, similar to new section 49K.

Subsection (1) provides that the new section 49M applies if the Coordinator-General has provided a copy of the Coordinator-General's change report to the proponent. In that circumstance, subsection (2) requires the Coordinator-General to provide a copy of the Coordinator-General's change report to the chief executive administering the RPI Act.

Subsection (3) provides that the proponent must make an application to amend the regional interests development approval under the RPI Act, if an application has not been made.

Subsection (4) operates in the same manner as new section 49K(9) and (10), providing for consideration of the Coordinator-General's change report and any properly made submissions on the change in making the decision.

Subsection (5) enlivens subsection (6) if the Coordinator-General provided a copy of the Coordinator-General's change report to the proponent after the chief executive decided the application to amend the regional interests development approval, and the proposed change to the project involves an activity requiring a regional interests development approval under the RPI Act.

Subsection (6) provides that the proponent must take the required steps to obtain approval of the activity evaluated in the Coordinator-General's change report.

Subsection (7) provides that new sections 49J to 49L apply to the regional interests development application as if reference to the Coordinator-General's report were a reference to the Coordinator-General's change report, and reference to properly made submissions on the draft EIS and draft IAR were reference to a properly made submission on the change application.

Subsection (8) causes subsection (5) to apply even if there is an undecided appeal against the decision on the requested amendment application for a regional interests development approval.

Subsection (9) inserts a new definition for a requested amendment application to give effect to section 49M.

Division 6E Relationship with Transport Infrastructure Act 1994

Division 6E provides for an approval or decision identified under new section 49N(b) made under the TI Act, including the ability to state conditions for the relevant approval or decision and the requirement to provide a copy of the Coordinator-General's evaluation report to persons administering that Act.

The provisions are intended to ensure that the decision maker is able to have regard to the Coordinator-General's report in making the decision or approval.

Section 49N Application of division

Section 49N sets out the scope of division 6E. The new division applies only if a project involves a State-controlled road or railway under the TI Act, and an application has been made for any of the following:

- an approval to carry out road works on a State-controlled road or interfere with a State-controlled road under section 33(1) of the TI Act (subsection (b)(i));
- an approval to construct, maintain, operate or conduct ancillary works and encroachments on a State controlled road under section 50(2)(a) of the TI Act (subsection (b)(ii));
- a decision stating various matters such as use, location, restrictions, conditions, situating, type, standard and extent for road accesses and road access works under section 62(1)(a) to (k) of the TI Act (subsection (b)(iii));
- approval to interfere with a railway under the control of a railway manager under section 255(1)(a) of the TI Act (subsection (b)(iv)).

These decisions or approvals are common permissions that major projects must obtain to deal with transport infrastructure, particularly in the resources sector owing to its reliance on bulk rail and road freight.

Section 49O Application of Coordinator-General's report to approval or decision for project involving State-controlled road or railway

Section 49O provides that the Coordinator-General's report may state conditions for the approval or decision identified under new section 49N(b) under the TI Act. If the Coordinator-General states conditions for the relevant approval or decision under section 49O(1), the Coordinator-General must give a copy of the Coordinator-General's report to the chief executive administering the TI Act, as well as the relevant railway manager if the application is for an approval to interfere with a railway made under section 255 of the TI Act. If approval is granted or decision made, the Coordinator-General's stated conditions are taken to be included in the approval or decision.

Section 49P Coordinator-General's conditions override other conditions

Section 49P deals with potential inconsistencies between conditions. Subsection (1) causes this section to apply if the approval or decision identified under new section 49N(b) is granted or made, the conditions of the approval or decision include the Coordinator-General's stated condition, and any inconsistency arises between the Coordinator-General's stated condition and conditions imposed by the decision maker.

Subsection (2) provides that, if there is any conflict between a Coordinator-General's condition stated under section 49O(1) and conditions imposed by the decision maker for approvals or decisions identified under new section 49N(b), the Coordinator-General's condition(s) prevail to the extent of the inconsistency.

Subsection (3) inserts a new definition for the Coordinator-General's condition to give effect to the section. Subsection (3)(b) operates in a scenario where the decision-maker imposes the same or substantially the same condition stated by the Coordinator-General as part the approval or decision itself; the condition is still a Coordinator-General's condition in that circumstance, even though it has been integrated with any other conditions. Subsection (3)(a) provides for the alternative, where the decision-maker *does not* impose the condition as part of the approval or decision – in that case the conditions stated in the Coordinator-General's report and any other conditions imposed by the approval or decision must be read together.

Clause 12 Amendment of s 54A (Application of div 8)

Clause 12 is a partly consequential and partly correctional amendment to section 54A to provide that division 8 does not apply if the project involves an approval under any of divisions 5 through 7. The objective of this amendment is to give proper effect to division 8, whereby conditions may only be imposed under section 54B where there is no relevant approval for which the Coordinator-General could state the conditions instead.

Consequential to the insertion of new divisions 6D and 6E under Part 4, the amendment ensures that an imposed condition cannot be used where the Coordinator-General has the ability to instead state a condition in relation to the RPI Act or TI Act.

The correctional aspect of the amendment ensures that the provision refers to the approvals given under the *Greenhouse Gas Storage Act 2009* and *Geothermal Energy Act 2010*, correcting an inconsistency that may have allowed an imposed condition to be used where those approvals applied, instead of stating conditions under divisions 6B and 6C.

Clause 13 Replacement of pt 5 (Prescribed development)

Clause 13 omits the previous part 5 (Prescribed development) and inserts the reformed infrastructure coordination plans framework. The name of the part is changed to better reflect the focus of part, being the process of investigation, preparing and implementing infrastructure coordination plans.

Part 5 Infrastructure coordination plans

Division 1 Preliminary

Section 55 Main purposes of part

This section establishes the main purposes for part 5. The purposes focus on promoting and supporting the development of the State's mineral or energy resources, coordination of the delivery of infrastructure to enable such development, and providing for effective dealing with planning applications to achieve those outcomes.

Development of the State's mineral or energy resources encompasses the entire value chain for such resources, extending to a variety of activities that create economic value for the State by utilisation of these resources. Activities may include, but are not limited to, exploration, extraction, processing, refining, smelting, handling, storage, transport, transmission, consumption and export of these resources.

Infrastructure relies on the definition of *infrastructure* established by schedule 2 of the SDPWO Act. This definition encompasses infrastructure that services the projects themselves, as well as infrastructure associated with those projects. For example, a project may propose roads or power infrastructure for its own purposes – this is 'required by' the project. A project may also create a demand for healthcare infrastructure owing to population increases associated with worker inflows. Whilst the project itself does not propose to provide that infrastructure, it is 'associated' with the project owing to its generation of the demand for the infrastructure.

Section 55A How main purposes are to be achieved

Section 55A operationalises the purposes described in section 55, setting out the key activities to be undertaken in relation to those purposes which link to the various functions under the part. Subsection (a) reflects division 2; subsection (b) refers to division 3; and subsection (c) is achieved through division 4.

Section 55B Definitions for part

The purpose of this section is to establish defined terms for part 5. Certain terms are defined elsewhere in the part and referenced here for clarity.

In connection with *relevant planning applications* (defined in section 55C), a *decision maker* is either the assessment manager (for development applications and extension applications) or the responsible entity (for change applications) prescribed under the Planning Act.

A *government body* means both the chief executive of a government department, or a local body (as per the definition of that term in schedule 2 of the SDPWO Act). This means that a *government body* captures effectively all organs of the State, excepting those of mixed private-public ownership.

The section identifies the various types of *planning applications* which are relevant for section 55C. A *planning application* includes an application under the Planning Act for either the making of a material change of use of premises, operational work, or reconfiguring a lot. These key land use approvals are brought into the framework to provide an appropriate level of oversight of the principal approvals for development that could be associated with the undertaking of the project(s) and the infrastructure subject of the infrastructure coordination plan. The definition also includes change applications and extension applications made in respect of the development referenced above.

The section also identifies *decision makers* in respect of those *planning applications*.

A definition of *minerals or energy resources* is provided, connecting with purposes of part (section 55). Mineral or energy resources are those naturally occurring substances that vest in the Crown or State, access to and exploitation of which are governed by the State's Resource Acts (such as the *Mineral Resources Act 1989* and *Petroleum and Gas (Production and Safety) Act 2004*). Examples include critical minerals deposits, coal, fluid or gaseous petroleum, and geothermal energy.

The definition of *minerals or energy resources* connects with *resources project*, which are projects for or associated with extracting and dealing with those resources.

The *pre-plan period* provides for the operation of division 4, particularly sections 58A and 58D in respect of when a relevant planning application must be referred and what decision the Minister may make about it. The period's maximum extent is from the start of the development investigation to the related infrastructure coordination plan coming into effect. The period may be shorter, if the Minister directs an end to the development investigation or decides not to proceed with bringing a plan into effect at any stage.

Section 55C Meaning of relevant planning application

This section provides for classification of certain types of applications under the Planning Act to be *relevant planning applications* for the purposes of the part.

Planning applications are only *relevant planning applications* where within one of the types of *planning applications* defined in section 55B, and where they have a particular relationship with either:

- a development investigation;
- an infrastructure coordination plan made and in effect.

A *planning application* is only a *relevant planning application* in relation to a development investigation where the notice (including an amended notice) for that investigation identifies the land on which the development takes place.

Whilst an infrastructure coordination plan is in effect, a *relevant planning application* is a planning application:

- for development involving, or associated with, land identified in the plan (e.g. land on which projects or infrastructure identified in that plan is, or will be, located); or

- where it is an application of a class identified in the infrastructure coordination plan, pursuant to section 57A(2) of the SDPWO Act. This may be an application for development of a type and characteristics able to be identified but for which specific land cannot yet be defined.

Applications are only captured if not yet decided. Certain types of applications are excluded from the definition by being taken to have been decided. These include where decisions or deemed decisions have been made, or where certain entities are the assessment manager or responsible entity, including the Minister for the Planning Act and Planning and Environment Court. The objective of these exclusions is to allow applications that *prima facie* have been decided to proceed without confusion, and to ensure no interference with the active functions of the Minister for the Planning Act and the Court in respect of a particular application.

Environmental and tenement approvals, such as site-specific environmental authorities under the *Environmental Protection Act 1994* or mining leases under *the Mineral Resources Act 1989*, are not affected by this regime and will need to be separately progressed by proponents.

Division 2 Development investigations

Subdivision 1 Direction to carry out development investigation

Section 56 Power of Minister to give direction to carry out development investigation

The purpose of this section is to empower the Minister to direct the Coordinator-General to undertake investigations of infrastructure in relation to resource projects, provided the criteria at subsection (3) are satisfied.

An investigation will take into consideration the infrastructure needs of and demands generated by projects themselves, along with the infrastructure solutions they independently propose. An investigation can also take into consideration other existing or proposed infrastructure that may not form part of the projects but which might provide or respond to demand for infrastructure and services associated with the development.

Section 56A Requirements for investigation notice

Section 56A requires the Coordinator-General to publish written notice of the Minister's direction to carry out the development investigation in the gazette. The notice must identify the relevant projects, land and infrastructure for the investigation, and state that planning applications will be affected by division 4 of the part.

The land and infrastructure identified in the notice links with the Coordinator-General's powers of investigation under new division 2, subdivision 2, as well as the system of applications management under division 4 within part 5.

Section 56B Requirements for affected person's notice

This section provides for notice of the investigation to be published in the government gazette and given to specific relevant persons. This is to ensure that persons dealing with the land use planning framework, infrastructure providers and proponents are aware of the investigation, as it may affect their ability to progress development applications and may require them to assist the Coordinator-General.

Subdivision 2 Carrying out development investigations

Section 56C Definition for subdivision

This section establishes a definition of *owner* that includes an occupier or someone reasonably appearing to be occupying or in charge of land (in addition to the ordinary meaning of an owner of land). This allows for notice to be given to and compensation claimed by someone other than the registered owner of the land in relation to an entry for a development investigation by the Coordinator-General.

Section 56D Matters for development investigation

This section effectively establishes the scope of a development investigation. The focus of an investigation is the infrastructure needs of the projects, rather than the impacts and merits of the projects more broadly – those are matters for other processes, such as an environmental impact assessment (although there may be areas of overlap).

The Coordinator-General is to make an analysis of potential demands on infrastructure networks and the potential needs for new and improved infrastructure owing to proposed resource projects, including considering the proposals and any alternative ways of achieving similar outcomes in terms of infrastructure provision.

The analysis will assist the Minister in considering the need for an infrastructure coordination plan.

Section 56E Persons authorised to carry out development investigation

This section sets out the persons who can exercise a power under section 56F.

Section 56F General powers for development investigation

Section 56F provides for the activities that may be carried out on land as part of the investigation. Illustrative examples are provided; activities are anticipated to be those necessary to carry out survey works, gather data, and undertake analysis to inform the investigation. The activities are not early or preparatory works for the projects or infrastructure itself.

The ability to enter land as part of a development investigation is not a mandatory requirement following the Minister's direction to carry out an investigation. The provision is to assist the Coordinator-General to access land where it may be required for the purpose of the investigation, such as where entry cannot otherwise be obtained.

Section 56G Procedure for entering land for development investigation

Section 56G sets out what is required to enter land pursuant to section 56F.

Section 56H Compensation for exercise of power under s 56F

Section 56H provides for an owner or occupier's right to seek compensation for loss or damage incurred as a result of activities undertaken following entry onto land for a development investigation.

Section 56I Approval to investigate other land or infrastructure

This section allows for investigation of land not already a subject of the investigation. The scope of the investigation is originally set out by sections 56 and 56A; should other land for a project or infrastructure become necessary to be investigated, subsection (1) and (2) allow the Minister to include such other land if satisfied that it is reasonably necessary to do so.

For example, this may arise where the Coordinator-General identifies the possibility of an alternative infrastructure solution to those proposed for a project and seeks to investigate areas that might be able to host the alternative solution.

Notice of such a direction must be provided by amending of the notice published in the gazette. The same rules of giving notice to persons apply for this additional investigation scope as apply to the original scope.

Section 56J Direction to discontinue development investigation

Section 56J allows the Minister to direct the Coordinator-General to discontinue the whole or a part of the investigation at any time. The Coordinator-General must give notice of the discontinuance in accordance with subsection (2).

A partial discontinuance may, for example, be where a project or particular piece or existing infrastructure is not longer to be included. Land for that project or infrastructure would no longer be able to be entered, and applications made involving that land would no longer be relevant planning applications.

A discontinuance results in the end of the pre-plan period to the extent relevant and any relevant planning application suspended pursuant to section 58C(2) is returned to the relevant decision maker, in accordance with section 58F(1)(b)(i).

Subdivision 3 Reporting on development investigations

Section 56K Coordinator-General must prepare investigation report

Section 56K requires the Coordinator-General to prepare a report detailing the findings of the development investigation. The content requirements for the report in part reflect the originating reasons for directing the investigation, i.e. the report is intended to provide evidence as to the matters described at section 56D, considering the demand or need for infrastructure generated by projects and the ways by which that demand or need could be met. The report must include a recommendation about whether an infrastructure coordination plan should be made.

The report also must provide information about various aspects of the projects and potential infrastructure demands, to inform decision making about an infrastructure coordination plan and to provide inputs to such a plan’s development. This may include consideration of whether there are alternative ways of meeting development objectives, for example by advancing more efficient infrastructure solutions than that proposed for the projects.

Section 56L Consultation on investigation report

To inform the development of the report and capture the views of key stakeholders, this section requires that the investigation report must be provided to the affected persons who were given notice of the investigation, and a submission be invited. Decision makers and applicants for

relevant planning applications must also be given a copy of the investigation report and invited to make a submission, in the event they are not already an affected person.

Section 56M Finalising investigation report

Following section 56L, this section requires the Coordinator-General to consider any submissions made regarding the investigation report, make changes as considered appropriate, prepare an outline of any submissions and how they were responded to, and include this in a final report for the development investigation that must be given to the Minister.

Section 56N Ending of development investigation

This section provides for a clear end point for a development investigation. The purpose this clarity is to provide a certainty of the point after which powers can no longer be exercised under section 56F, i.e. to enter land.

Division 3 Infrastructure coordination plans

Subdivision 1 Making and approval of infrastructure coordination plans

Section 57 Direction to make infrastructure coordination plan

This section provides for the Minister's decision about whether to direct the preparation of an infrastructure coordination plan for infrastructure in relation to the projects subject of the development investigation.

Subsection (2) allows for a decision in the positive or negative. Additionally, the direction may be that a plan be made for all the infrastructure for projects, or some of the infrastructure – for example, where it is effective to leave self-sourcing of certain infrastructure solely in the hands of proponents.

In determining whether to make such a direction, the Minister must have regard to the final report for the investigation and the recommendation given by the Coordinator-General included within that report.

The Minister may only direct a plan be prepared where they are satisfied that the criteria prescribed by subsection (3) is met. These include that the relevant resource project(s) are of major economic significance (which may include where the projects collectively achieve this significance); that the project(s) are likely to generate demands/needs for infrastructure; and that it would be in the State interest to coordinate the provision of infrastructure to respond to that demand.

Where the Minister directs that a plan be prepared, subsection (5) provides for setting a date for the report's submission, and subsection (6) sets out how the Coordinator-General is to give notice of the Minister's direction to certain persons connected with land, projects or infrastructure in relation to the plan.

If the Minister decides under this section that a plan will not be prepared, section 57G applies.

Section 57A Requirements for infrastructure coordination plan

Section 57A sets out the content requirements of an infrastructure coordination plan. The plan must identify the relevant resources projects and their locations, the various parties who are involved in the implementation of the plan, and the infrastructure forming part of the plan.

The plan is also to provide for ways in which the provision of the infrastructure may be coordinated, and any future steps to be taken by parties to the plan to further its aims, such as further investigation of parts of the proposed development, relevant infrastructure, or means of coordinating the provision of said infrastructure.

The infrastructure may be infrastructure required for the projects. Examples may include water pipelines, power generation and transmission, microgrids, haul roads, intermodal facilities, railways and loadout facilities, or first-order processing facilities.

The infrastructure may also be associated with the projects, i.e. generating a demand for but not directly relying on it. For example, whilst a school may not be strictly necessary for the operation of a mine, medium-term population growth in nearby communities because of industry expansion may create a need for additional classrooms and teachers.

Infrastructure may be identified generally in the plan, so that responsibility for taking further steps about it (e.g. undertaking a business case) can be set out. It may be further specified by reference to land on which it will be developed (where known), or by reference to a class of planning applications for that infrastructure. These applications become relevant planning applications, in accordance with new section 55C(1)(b)(i) and (ii). For example, where a workforce accommodation facility is identified as needed in the plan, the plan may identify the lot and plan it will be developed on; or alternatively, that an application for a material change of use for a workforce accommodation facility within a certain area that meets certain requirements (such as a minimum number of beds) is a relevant planning application for the purposes of part 5, division 4.

A plan must state that the parties identified in the plan must take reasonable steps to ensure compliance with any obligation created by the plan. Whilst there are no direct penalties for failure to act in accordance with the plan, injunctive relief remains available. Additionally, a proponent's compliance with a plan may be a matter for consideration under other aligned frameworks. For example, a project's alignment with a plan may be taken into account in decision-making about a project's other approvals, where permitted and reasonably relevant.

A plan must also state the day on which it ceases to have effect.

Subsection (3) provides that the content of the plan set out at subsections (1) and (2) is not exhaustive.

Section 57B Draft infrastructure coordination plan for consultation

Section 57B creates a consultation process for the development of an infrastructure coordination plan. The Coordinator-General may prepare a draft plan and give a copy of it to each person identified in the draft plan, as well as decision makers and applicants for relevant planning applications which have been referred to the Coordinator-General under section 58A. Submissions are to be invited from these persons.

Section 57C Making of infrastructure coordination plan

This section sets out how the Coordinator-General must consider submissions about the draft plan, make amendments as appropriate, and provide the draft plan to the Minister. The Coordinator-General must also provide a report outlining any submissions and the way in which they were considered, whether or not resulting in amendments of the draft plan.

The Minister may direct that amendments be made to the draft plan, which the Coordinator-General must make. Where amendments are made (whether directed by the Minister or otherwise), notice of doing so must be given to the persons previously invited to make a submission on the draft plan.

Section 57D Approval of infrastructure coordination plan

Section 57D provides for the process of approving and making an infrastructure coordination plan. The Minister may recommend to the Governor in Council to make a regulation approving an infrastructure coordination plan, only if satisfied that the criterion at section (2) is met.

The criterion requires the Minister generally to be satisfied that the plan will lead provision of the infrastructure in a way that is coordinated and efficient. This will require weighing up the impacts of the plan on the projects, taking into account the extent to which any additional burdens or complexities for development are met with a counterweighing benefit.

The regulation must identify the plan. Notice of making the plan is to be given in accordance with subsections (3) and (4). A copy of the plan is to be kept on the department's website.

Subsection (6) applies where the Coordinator-General has made the plan under section 57C(5)(a), but the Minister decides that they will not recommend the approval of the plan by making of regulation to the Governor in Council. The Coordinator-General is to give notice of the Minister's decision. This effectively brings the operation of part 5 to an end.

Section 57E Direction to not make infrastructure coordination plan

This section allows the Minister to direct the Coordinator-General to discontinue preparation of an infrastructure coordination plan if previously directed to do so. This allows for a response to change in circumstances or policy as required.

Subdivision 2 Amendment of infrastructure coordination plans

Section 57F Direction to amend infrastructure coordination plan

This section provides that the Minister may direct the Coordinator General to prepare an amendment to an infrastructure coordination plan. Amendments are either minor or not minor; sections 57FA and 57FB deal with each scenario.

Section 57G Process for making minor amendment

This section allows the making of minor amendments to an infrastructure coordination plan. This may be to correct a typographical or grammatical error or similar change that does not affect the substance of the plan.

Given the change will not have an impact on the substantive content or obligations of the plan, it does not require approval by the making of regulation. However, each party to the plan, and decision makers and applicants for relevant planning applications, are to be given notice of the amendment.

Section 57H Process for making amendment other than minor amendment

This section is for amendments other than minor amendments to an infrastructure coordination plan. Making such an amendment requires a similar process as for making the original plan, including consultation and consideration of the draft by the Minister. The Minister may also direct the Coordinator-General to discontinue preparation of the amendment under section 57E.

Section 57I Approval of amended infrastructure coordination plan other than for minor amendment

This section sets out how an amendment to an infrastructure coordination plan other than a minor amendment is to be approved. Such amendments must be approved by making of regulation. The Minister must be satisfied of various matters similar to the approval of the original plan, and notice given, as set out by section 57D.

Effects on planning applications do not occur until the amendment is made. For example, if the draft amendment included new land not included in the original plan, an application involving that new land is not a relevant planning application until the amendment takes effect.

Subdivision 3 Miscellaneous

Section 57J Period of infrastructure coordination plan

Section 57J sets out the currency period of an infrastructure coordination plan.

Division 4 Relevant planning applications

Subdivision 1 Referral of relevant planning applications to Coordinator-General

Section 58 Application of subdivision

This section sets out when the subdivision applies. The subdivision stops applying if the pre-plan period ends or if an infrastructure coordination plan ceases to have effect.

Section 58A Requirement to refer relevant planning application to Coordinator-General

This section requires that a relevant planning application that has not been decided must be referred to the Coordinator-General. Read with the definition of relevant planning application, this must occur if such an application exists, or is made, once the pre-plan period has commenced and/or whilst the infrastructure coordination plan is in effect.

The decision maker must give the Coordinator-General a copy of all relevant material about the application, including materials not part of the application itself; for example, a draft of the assessment manager's assessment report or advice from a referral agency.

The intent of this section is to directly bring any application that might have bearing on the development investigation or the infrastructure coordination plan to the Coordinator-General's attention and allow it to be dealt with under this framework.

Section 58B Decision maker must give applicant notice of referral etc.

Section 58B requires that the decision maker for a relevant planning application must give notice of its referral under section 58A to the applicant, and other relevant parties as provided for by subsection (2) depending on the stage the application reached prior to this section taking effect for that application.

Section 58C Suspension of development assessment process

The purpose of section 58C is to ensure that adverse planning decisions are not made that may frustrate the development investigation or preparation and objectives of an infrastructure coordination plan. The section requires that a decision maker must not take steps to progress nor decide a relevant planning application once referred under section 58C.

Subsection (2) provides for 'stop the clock' mechanisms for the application as it relates to the Planning Act, so that the assessment manager/responsible entity, applicant and referral agencies are not compelled to take action by that Act. An exception is made for circumstances where the period for making submission about the application has started; submissions can continue to be made until the last day set out in the application's public notice, so as to not prejudice submitters relying on the full length of the period. The suspension takes effect thereafter.

Subdivision 2 Return of relevant planning applications to decision maker

Section 58D When Minister must decide how application will be managed

The purpose of this section is to empower the Minister to decide how applications will be dealt with and provide timeframe clarity to decision makers, applicants and the government. The section requires the Minister to determine whether a relevant planning application will be suspended, decided by the Minister, or returned to be decided by the original decision maker for the application, within a set period.

Subsection (2)(a) allows for return of any relevant planning application to the decision-maker. This allows for return of applications not relevant to the development investigation or infrastructure coordination plan, or which can be dealt with appropriately by that decision-maker in the context of the investigation or plan. For example, it may be effective for a local government to decide the application if the local planning scheme has been updated to reflect the infrastructure coordination plan through changes to zoning, overlays and assessment benchmarks.

Subsection (2)(b) deals with scenarios other than return of the application to the assessment manager. Subsection (2)(b)(i) provides that the Minister may only decide whether to continue a referred application's suspension during the pre-plan period. The Minister may not assess and decide the application itself during this period.

Conversely, once an infrastructure coordination plan is in effect subsection (2)(b)(ii) instead applies, enlivening the Minister's power to decide the application itself. For the life of the plan, once a relevant planning application is referred the Minister may only decide to return it to the decision maker, or to decide it themselves (i.e. it cannot be suspended indefinitely).

When an infrastructure coordination plan comes into effect, subsection (1)(c) triggers the need to make a decision under subsection (2) for application that was referred during the pre-plan period for which, at that time, the Minister decided to allow the suspension under subsection

(2)(b)(i). That is, for any application still suspended when the plan takes effect, the Minister must decide whether to return it to the decision maker, or to decide it themselves.

For any decision made or taken to have been made under subsection (2), the Coordinator-General must give a notice of the decision to the decision maker, applicant and any referral agency. This notice must state the point in the development assessment process at which the application restarts, such as by reference to the Development Assessment Rules in force under the Planning Act from time to time.

Subsection (5) provides that if the Minister does not make any decision under subsection (2) within the set timeframe of 10 business days, it is deemed to be that the Minister made the decision under subsection (2)(a) and the application will return to the decision maker. Section 58G(1)(a) will thereby apply. The return avoids an unintended possibility of suspension by inaction rather than by decision, and favours progression of the application by default.

The 10 business day period for the Minister's decision is aligned with the Development Assessment Rules, being the same length as the ‘confirmation period’ defined by that instrument.

For any decision made or taken to have been made under subsection (2), the Coordinator-General must give a notice of the decision to the decision maker, applicant and any referral agency. This notice must state the point in the development assessment process at which the application restarts, such as by reference to the Development Assessment Rules in force under the Planning Act from time to time.

Section 58E Minister’s power to return application to decision maker

In the event that the Minister decides to return a relevant planning application to the decision maker outside of section 58D, this new section provides for restoration of a decision maker’s jurisdiction upon the giving of a notice. A point for restarting the development assessment process must be stated in the notice.

An example of this section’s use may be where the Minister first decided under section 58D to suspend the development assessment process for an application during the pre-plan period, but later in the period comes to the view that the application should be returned.

Section 58F Requirement to give notice about return of particular applications to decision maker

Section 58F provides for the continuance of the development assessment process in scenarios where the Minister effectively directs an end to the process of making an infrastructure coordination plan, or upon the plan’s end.

The end of the period or plan results in the return of the application. The Coordinator-General must give notice of the return to the decision maker and applicant for a relevant planning application, and The notice must set out where the development application process restarts for the application.

The section provides for the continuance of the development assessment process in scenarios where the Minister effectively directs an end to the process of making an infrastructure coordination plan, or upon the plan’s end.

Section 58G Effect of return of application to decision maker

Section 58G makes clear that an application returned to a decision maker must be assessed in accordance with the Planning Act chapter 3, parts 1 to 5 (the chapter of that Act dealing with development assessment), effectively as if referral under section 58A had not occurred. This is subject to the process restarting at the place specified in the notice given under section 58D, 58E or 58F.

Subdivision 3 Decision of relevant planning applications by Minister

Section 58H Application of subdivision

Section 58H causes the subdivision to apply where the infrastructure coordination plan is in effect, a relevant planning application has been referred to the Coordinator-General, and that application has not been returned to the decision maker.

Section 58I Minister may propose to assess and decide application

Where section 58H applies, the Minister may give a notice of intention to decide for the relevant planning application if they consider it likely to be necessary and appropriate that they assess and decide the application to achieve the purposes of part 5. The Minister need not be satisfied of that fact at this stage.

For example, the Minister may form the view that their assessing and deciding of an application would provide for efficiency and certainty, taking into account the infrastructure coordination plan and broader strategic interests that the ordinary assessment manager could not consider.

The purpose of the notice is to advise key parties for the application – including any submitters, if the application was notified prior to referral – of the Minister's intent to decide the application, the reasons for that intent, where the Minister intends the assessment process to restart, and the effects on appeal rights if the Minister does decide the application. The notice must invite submissions about the Minsiter's proposal.

Section 58J Notice of Minister's decision about proposal to decide application

Following section 58I, persons in receipt of a notice of intention to decide may make submissions which the Minister must consider.

The Minister must then decide whether they will assess and decide the application. Notice of that decision and the reasons for it must be given to the applicant and decision maker. Other parties, including referral agencies and the Planning and Environment Court, are to be given notice if those parties have a role in the application at the time.

The Minister may only make the decision at subsection (3)(b) where satisfied it is necessary and appropriate to do so to achieve the main purposes of the part. This is a higher threshold than 'considers it likely' set out at section 58I(1).

Section 58K Requirement for Minister to decide application

This section sets out how the Minister is to decide a relevant planning application. Rather than providing for an ability to engage with an 'in train' application to deal with State interests (as that concept is established via the Planning Act), the intent is to establish a way for the Minister to assume authority over a particular application from the effective commencement of assessment process, to implement the objectives of the infrastructure coordination plan in as

efficient and certain a manner as possible. If an application is instead returned to the decision maker, the Minister cannot later recall and decide it.

The section requires the Minister to decide the application in a certain timeframe, or the application will be deemed to have been refused. Subsection (9) sets out the time period for the making of the decision. The period is 30 business days by default, which the Minister may decide to extend by a maximum of a further 20 business days (aligning with the call in power under the Planning Act). Further extensions beyond that 50 business day total period are allowable, but must be agreed between the Minister and applicant in writing.

The development assessment process applies to the Minister's assessment, restarted at a point of their choosing. However, modifications are made. An alternative consultation process is established by subsection (6). If the application would be notifiable under the Planning Act (for example, if it were for impact assessable development), section 53 of that Act dealing with notification does not apply. Instead, the Coordinator-General must notify the application and invite submissions to be made to the Minister. The period for making submissions must be at least 15 days, which is the same as the default minimum period set out at section 53 of the Planning Act. This ensures an equivalent level of public participation for such applications.

However, if such an application had already been notified under the Planning Act before referral to the Coordinator-General (for example, if it had progressed to the notification stage prior to commencement of the development investigation), subsection (7) provides that it need not be notified again if the Minister has been provided a copy of each properly made submission.

Subsection (8) provides for modifications to the requirements of the Planning Act to ensure that the Minister has an appropriate level of flexibility to decide the application in the specific context of the infrastructure coordination plan framework. These closely align with the modifications made for the Minister's call in power under the Planning Act.

Section 58L Considerations for Minister deciding application

In assessing and deciding the application, the Minister must consider the purposes of part 5, the infrastructure coordination plan, any submissions, and other matters if prescribed by regulation. This provides for greater flexibility in decision making so that the Minister can best achieve the purposes of the part and give greatest effect to the infrastructure coordination plan.

The Minister may take into account any other matter considered relevant. An example may be the criteria for making the decision under a local planning scheme, or the referral agency's advice. If a referral agency's response was given prior to referral, the Minister does not need to consider it, although subsection (2) allows doing so.

These matters require the Minister to consider the application in the context of the infrastructure coordination plan, which represents a detailed and clear statement of expectations and desired outcomes by the State. The ability to consider other relevant material or a development application provides for reference to established frameworks, such as local planning schemes, accounting for changes in circumstances arising from the infrastructure coordination plan.

Section 58M Notice of Minister's decision

This section requires the Minister to give written notice of their decision made under section 58K and the reasons for the decision. As a decision notice for a development application, the operative portion authorising the carrying out of the development becomes the development permit for the purposes of section 49(3) of the Planning Act.

In giving a decision notice, the Minister must comply with the content requirements of such notices under the Planning Act to the extent relevant. This reflects that the SDPWO Act has modified the standard process for progressing and deciding such an application under the Planning Act that may cause it to not be possible or appropriate to fully conform to said content requirements. This is similar to the way the Planning Minister's call in power operates under section 105 of the Planning Act.

Section 58N No appeal against Minister's decision of application

To give effect to part 5's objectives of enabling development of the State's minerals and energy resources through projects and infrastructure that supports those projects, this new section provides that the Minister's decision about a relevant planning application is not subject to appeal or review (e.g. a *de novo* appeal to the Planning and Environment Court). This provides unequivocal outcome certainty for parties and minimises the possibility of delay in delivery.

This is achieved by designating an application decided by the Minister under section 58K as an excluded application, which effectively precludes the operation of section 229 of the Planning Act by way of schedule 1 of that Act. This also means that the application has no appeal period for the Planning Act. Changes to the approval (including to aspects such as conditions) must be dealt with by way of change applications, which may be referrable as relevant planning applications in accordance with new sections 55C and 58A inserted by this Bill.

Nothing in this section affects the *Judicial Review Act 1991*; the Minister's decision is reviewable under that Act.

Section 58O Report about decision of application

To provide for transparency and accountability in the decision making of the Minister, this section requires the preparation and tabling of a report in the Legislative Assembly about each determination of a relevant planning application by the Minister under subdivision 3.

Section 58P Operation of Planning Act if application decided by Minister

Similar to part 6, division 3 of the Planning Act, the Minister is not characterised as the assessment manager for the application. Instead, the Minister may directly assess and decide the application as it stands.

As a result, there is a need to ensure effective transition of processes following a decision of the Minister about an application under section 58K. Decisions about such applications take effect as if made by the assessment manager for that application. Subsequent dealings with a development approval, including any enforcement and issuing of infrastructure charges notices can be dealt with by the assessment manager or another entity under the Planning Act as relevant.

The implications of the Minister's role for development applications under this part 5 in respect of subsequent for change and extension applications are accounted for by including these applications within the definition of relevant planning application. By effect of this section 58P, such applications can be made in accordance with the Planning Act, to the person prescribed by section 78A or section 86 of that Act (e.g. the assessment manager). Once made, such an application may itself be a relevant planning application requiring referral to the Coordinator-General, and may ultimately be decided by the SDPWO Act Minister.

Subdivision 4 Other provisions

Section 58Q Changing relevant planning application

This section provides that an applicant retains the ability to make a minor change to a relevant planning application as per the Planning Act. Notice of the change is to be given to the Coordinator-General by the decision maker.

Section 58R Withdrawal of relevant planning application

Section 58R allows for the withdrawal of relevant planning applications at any time by the applicant giving written notice to the decision maker for the application. Such notice must be provided to the Coordinator-General.

Section 58S Register of relevant planning applications

To provide stakeholders with access to information about how applications are affected by and/or progressed subject to a development investigation or infrastructure coordination plan, this section requires the Coordinator-General to maintain a register of relevant planning applications, describing their status at various stages.

Section 58T Declaration by Planning and Environment Court

To support the function of the relevant planning applications system, this section allows for a person to start a proceeding in the Planning and Environment Court to seek a declaration about a thing done, or that should have been done, under division 4. A declaration may also be sought about interpretation of division 4, or another provision of part 5 that relates to division 4.

This is to provide for declaratory relief about matters of a procedural or interpretive nature in respect of relevant planning applications. Such jurisdiction is generally consistent with section 11 of the *Planning and Environment Court Act 2016* (in respect of the Planning Act) and section 78 of the *Regional Planning Interests Act 2014*.

Division 5 Information concerning development

Section 59 Minister may obtain information

To support the Minister's functions under part 5, new section 59 creates a power for the Minister to request information from a person and sets out how such a request is to be made and responded to. An example of the use of this function is to make requests for information to assist in the deciding of a relevant planning application by the Minister.

These powers are exclusive to the Minister. Where required, the Coordinator-General may rely on their powers under sections 13 and 157OA of the SDPWO Act to obtain information to assist in performing their functions under part 5.

Clause 14 Replacement of ss 76A and 76B

Clause 14 amends the purposes of part 5A to broaden the part's purposes.

Section 76A Purposes of part

Section 76A establishes new purposes for the part. These new purposes reflect the policy objective that part 5A contain functions to recognise, promote and enable the development of projects of significance to the State and to regions. The new purpose at section 76A(b) specifically provides for State strategic projects, which are projects of greatest importance to the State.

Section 76B How the purposes are to be primarily achieved

Section 76B sets out how the new purposes are intended to be achieved, being through both amended and new functions, including the modification order, State significance notice, and changes to the step in power. These are referenced at subsections (b) through (d) and are linked to the purposes described at section 76A.

Additionally, former purposes including the imposing of conditions and use of voluntary agreements are now included under section 76B, given these functions now primarily form means of achieving the purposes rather than purposes in of themselves.

Clause 15 Amendment of s 76D (Definitions for pt 5A)

Clause 15 amends section 76D to include new definitions to give effect to amendments to part 5A.

The definition of *critical infrastructure project* is omitted as that term is no longer used. A new definition of *State strategic project* is inserted by reference to new section 76EB. The definition of *registered owner* is also omitted, as part 5A can now rely on the amended definition of that term in schedule 2 of the Act.

The clause inserts a new definition of *decision-making period*, as that term has become common to both notices to decide and the new State significance notices. The period is the period set out under the relevant law, but without any possible extensions that might be permitted under that law.

> *Example – section 168(1)(b) of the Environmental Protection Act 1994 provides that a decision about certain environmental authority applications must be made within 20 business days after the start of the decision stage. In those circumstances, section 168(2) of that Act allows an extension of the decision stage by up to 20 additional business days. However, if that decision was subject to a notice to decide, the definition of decision-making period created by the amendment would prevent use of the extension, resulting in a maximum decision-making period of 20 business days.*

To provide for the operation of the new State significance notice, a *prescribed decision* now includes a decision to be made by a Minister, but only in relation to a State significance notice. Progression notices, notices to decide and step in notices continue to not be applicable to decisions of a Minister, and none of the notices can apply to decisions made by the Governor in Council.

Clause 16 Amendment of s 76E (Declaration of prescribed project)

Clause 16 amends section 76E by omitting section 76E(4) to give effect to the new standalone provision for declaration of State strategic projects via new section 76EB.

It also removes 'infrastructure facility' as a type of project that can be declared a prescribed project. This is a consequential amendment following the replacement of the infrastructure facilities function from part 6 with the new access authority for prescribed projects and compulsory acquisition for State strategic projects. A project that would have met the definition of an infrastructure facility is not excluded from being declared a prescribed project, if it could meet any of the criteria in subsection (1)(a)-(d).

Clause 17 Insertion of new s 76EB

Clause 17 inserts section 76EB to enable the declaration of a State strategic project.

Section 76EB Declaration of State strategic project

State strategic projects replace the former critical infrastructure project designation. State strategic projects are projects of greatest importance to the State. Availability of the new State significance notice and modification order powers, compulsory acquisition of land, enabling works and expanded scope of strategic infrastructure easements (formerly critical infrastructure easements) are all linked to a project's status as a State strategic project.

To declare a project to be a State strategic project, the Minister must be satisfied of the criteria set out at subsection (1)(a) or (1)(b).

A project's essential or critical nature is derived from its characteristics in view of the needs of the State. It indicates an importance of delivery, the delay of which may be detrimental to the State. For example, a project that secures safe and reliable drinking water supply for a major regional centre in the context of water shortages may be critical or essential to the State.

Consideration of a project's capability to enable achievement of the Government's economic, environmental or social objectives extends to a range of matters, which may overlap. These can be aspects of the project itself, such as the investment it attracts, generation of employment, or role in providing a conservation outcome. However, the project is also to be considered in broader context.

A project may enable achievement of economic objectives because, despite a modest capital requirement or more limited operating margins, it builds important sovereign capability or improves the State's capacity to respond to economic challenges arising from geopolitical circumstances. Another project's potential to support Queenslanders' ways of life by providing public goods such as defence, law enforcement or emergency services may be instrumental in achieving social objectives. Rectification and prevention of erosion that places communities and natural values at risk may achieve environmental objectives. A project's ability to enable achievement of Government economic, environmental or social objectives can be derived both from its inherent characteristics, and its place within a policy context.

Whilst all State strategic projects are prescribed projects, not all prescribed projects will be State strategic projects. The clause allows the declaration to occur at the same time as its prescribed project declaration, or at a later time – for example, if a change in circumstances elevates a project's importance or ability to meet an emergent government objective. A project

is no longer a State strategic project when its prescribed project declaration expires in accordance with section 76F.

Clause 18 Insertion of new ss 76HA and 76HB

Clause 18 inserts sections 76HA and 76HB.

Section 76HA Access to land by proponent of prescribed project

Section 76HA provides that a proponent of a prescribed project can apply for an access authority to enter land, including private land, for the purpose of investigating the land's suitability for the proposed project.

Such an application may only be made where, despite making reasonable efforts, the proponent has not been able to negotiate entry with the owner of the land. The purpose of this section is to provide an avenue to advance projects that are declared to be of significance to the State if no other pathway is available.

The land may be the land subject of the development itself, or land that has an impact on the development – for example, land not subject to the principal development activity but which hosts ecological values that must be accounted for in a project's assessment, approval and/or design.

The application itself is dealt with under the new part 6A.

Section 76HB Enabling works by proponent of State strategic project

Section 76HB establishes when a proponent can apply to the Coordinator-General for an access authority that authorises the carrying out of enabling works on the land. A proponent of a State strategic project may apply where they consider it is necessary to carry out enabling works on particular land for the project, having regard to the minor and temporary nature of the works; and despite making reasonable efforts, they have not been able to negotiate the carrying out of the enabling works with the owner of the land.

The application itself is dealt with under the new part 6A.

Clause 19 Amendment of s 76J (Notice to decide)

Clause 19 amends section 76J to clarify that, where a decision is subject to a notice to decide, a decision maker cannot extend that period through any extension or possible extension ordinarily available under the relevant law. This is achieved by reliance on the new definition of *decision-making period* inserted by the amendment to section 76D.

The section otherwise maintains that a notice cannot set a period for making a decision to be less than 20 business days, unless the decision-making period under the relevant law itself requires the decision to be made in less than 20 business days. In that case, the minimum period is the period set out by that law.

Clause 20 Replacement of s 76L (When step in notice may be given)

Clause 20 reworks section 76L.

Section 76L When step in notice may be given

The replaced section establishes the circumstances under which a step in notice may be given. The provision will no longer require the Coordinator-General to have issued a progression notice or notice to decide as a precondition to issuing a step in notice, nor be satisfied that a step in notice is required to ensure timely decision making for the decision or process.

The provision will now allow the giving of a step in notice where the Coordinator-General is satisfied that the notice is necessary and appropriate for the Coordinator-General to become the decision maker to achieve the purposes of the part. This remains subject to section 76K (which is not amended by the Bill), requiring that the Minister first approve the giving of the step in notice. Subsection 2(b) includes where a decision maker has made, or is taken to have made, the decision. This is to cover decisions that have been made, or taken to have been made, such as a deemed decision.

The provision also clarifies that a step in notice may be given for a prescribed decision that is the subject of a State significance notice. This clarification does not include reference to a prescribed process, as State significance notices only apply to prescribed decisions.

Former provisions regarding the timing of the giving of a step in notice have been simplified. Where the notice is given after the prescribed decision is made and that decision has an appeal or review period under the relevant Act (e.g. the appeal period for a decision about a development application under the Planning Act), timeframes have been aligned with the standard period for parties to file entries of appearance in appeal proceedings to prevent proceedings from materially commencing before a step in notice takes effect.

Where the relevant law does not provide for a review or appeal mechanism, a standard period of 10 business days will apply to provide for certainty about when step in notices can and cannot be given.

Clause 21 Amendment of s 76N (Effects of step in notice)

Clause 21 provides a correctional amendment to reference the new purposes at section 76A. It also provides that if a decision maker has made or is taken to have made (such as a deemed decision) the prescribed decision or a decision in the prescribed process, it stops having effect. This is to clarify that despite a decision being made, a step in may be utilised.

Clause 22 Insertions of new pt 5A, divs 3A and 3B

Clause 22 inserts provisions for the new State significance notice (division 3A) and modification order (division 3B) functions.

Division 3A State significance notice

Section 76RA Application of division

Section 76RA provides that, to ensure the proper effect of the mechanism, this division prevails in relation to a prescribed decision subject of a State significance notice, despite anything in the relevant law under which the prescribed decision is made.

Section 76RB State significance notice

The section creates the power to give a State significance notice. The Minister may give a State significance notice; if so, it must be given to both the decision maker and applicant (i.e. proponent for the State strategic project) for a prescribed decision. Once given, the decision maker must make the decision in consultation with the Minister.

A State significance notice can only be given for a prescribed decision that is to be made in relation to a State strategic project.

Before giving the notice, the Minister must be satisfied that the notice is necessary and appropriate for the Minister's advice and other matters to be considered by the decision maker, to achieve the purposes of Part 5A.

Subsection (3) sets out what the notice must include. The notice will require the decision maker to take into account the purposes of the part (section 76A), as well as any additional matters set out in the notice.

Subsections (4) and (5) provide that the notice may state a minimum period within which the decision maker must give a written notice to the Minister of the decision proposed to be made, pursuant to section 76RD.

Section 76RC Matters to consider for making prescribed decision

Section 76RC provides that the decision maker must take into account the purposes of Part 5A and the matters set out in the notice when making the prescribed decision.

For example, where the relevant law provides for bounded considerations, the decision maker will be empowered by section 76RC (read with section 76RA) to also consider the matters in the State significance notice, despite the bounding.

Section 76RD Consultation with Minister about prescribed decision

This section provides for the process of consultation with the Minister before making the decision. The decision maker is to provide the Minister with a written notice stating the proposed decision along with any proposed conditions, and a statement of how the matters in the State significance notice were taken into account in coming to that proposed decision.

Subsection (4) requires that as soon as practicable after receiving the notice from the decision-maker, the Minister must give the decision maker a written notice, either giving further advice to be considered by the decision maker or notifying the decision maker that the Minister has no advice. The further advice is not necessarily an endorsement or rejection of the decision proposed to be made. It must be taken into account and given appropriate weight, but is not determinative. The decision maker must consider whether any changes should be made to the proposed decision or the proposed conditions, having regard to the advice.

The written notice from the Minister must also state the day on which the decision maker must make their decision. To prevent an unreasonable delay for the applicant and decision maker, subsections (7) and (8) provide that, if the Minister does not give such a notice within 15 business days of the decision maker's notice, it is deemed that the Minister has no advice and a default period applies to the making of the relevant decision by way of section 76RE(1)(b).

Section 76RE When prescribed decision must be made

This section requires the prescribed decision to be made on the day stated in the written notice given by the Minister under section 76RD(4). The requirement to be made on that day applies despite there being, or not being, a decision making period under the relevant law. The intention of this section is to provide for clear and precise timing of decision-making.

Subsection (1)(b) deals with the scenario where the Minister is deemed to have given no advice by way of section 76RD(8).

Subsection (3) provides for a situation where the State significance notice is repealed. Where this occurs before the decision is made, the decision must be made under the relevant law within the period stated in the notice from the Minister, which is to be at least the prescribed number of days after the repeal. To ensure decision-makers are no worse off and have an appropriate period in which to make their evaluation and decision, the period becomes the number of days that were remaining in the decision-making period under the relevant law when the State significance notice was given, plus one day. The extra day given is to account for the day that the notice was originally received, as from that day the decision-making process was altered and so should not be taken to have been expended as a day under the normal decision-making period. The Minister can set a period longer than the prescribed number of days.

Section 76RF Effect of prescribed decision

Section 76RF provides that the decision made by the decision maker is taken to be made in accordance with the process for making the decision under the relevant law and has effect under the relevant law. However, despite the relevant law, the decision is not subject to review or appeal to the extent it relates to the approval (i.e. matters of a procedural or declaratory nature may still be progressed if not relating to the merits of approval itself) by a person other than the applicant. The applicant is still able to appeal an approval decision – for example, to seek review of the merits of a condition imposed by the decision maker.

The removal of certain review or appeal rights is generally consistent with the treatment of decisions that involve a Minister's consideration of the State interest, such as a decision called in by the Minister for the Planning Act. The reasoning behind this is to meet the objectives of the part, namely to ensure timely progression of projects that are declared as State strategic projects, by preventing delay.

Where the decision is a refusal, the decision is still capable of appeal by the applicant. Also, the decision of the decision maker is still subject to review under the *Judicial Review Act 1991*. Subsection (1) responds to this possibility, effectively providing that the notice is not irrelevant or that reliance on it is not *prima facie* unreasonable in making the subject decision.

Division 3B Modification orders

Clause 22 also inserts provisions for the new modification order function.

Section 76RG Definitions for division

This section establishes defined terms for division 3B.

The *modified Act* is effectively the law subject to the modification order. As per section 7 of the *Acts Interpretation Act 1954*, the reference in that definition to 'Act' is taken to be a reference to statutory instruments made or in force under that Act.

The definition of *modification order* refers to section 76RH, which sets out what a modification order is.

For an Act, the *responsible Minister* is the Minister who is administering the Act. In circumstances where multiple Ministers administer one Act, the Minister administering the particular provision(s) of the Act that are intended to be modified will be the *responsible Minister*.

Section 76RH Modification order

The purpose of this section is to establish the power to make a modification order. Section 76RH states that a regulation may prescribe that a stated provision of an Act does not apply, or applies with stated modifications, to the undertaking or providing for the undertaking of a State strategic project.

A modification order may deal with the regulatory processes that result in the grant of approvals, licenses, authorities and other such permissions for the project, and for the carrying out of the project itself. This section operates alongside section 76RI(1)(a), which sets out the requirement for the Minister's satisfaction of the need for an order in connection with decision-making processes for the project.

Subsection (2) sets out what the regulation may prescribe, being:

- how provisions of the Act subject of the order (as well as other Acts) apply in respect of the project;
- conditions that will apply to undertaking the project to manage detrimental environmental effects that may flow from the modification;
- the period for which the modification order applies; and
- matters of a consequential or transitional nature.

Section 76RI Restriction on Minister recommending order

The purpose of this section is to establish the controls on the making of a modification order.

Subsection (1) provides that the Minister may recommend to the Governor in Council the making of a modification order only if satisfied of several matters.

Subsection (1)(a) requires that it is in the interest of the State that decision making for the project proceeds without unnecessary and unreasonable impediment, having regard to the reasons for the project's declaration as a State strategic project, as a threshold matter for making the order. An impediment is something that prevents or interferes with the progress of the project.

Whether an impediment is unnecessary or unreasonable will be a question of fact and degree to be determined by the Minister in each instance, considering the effect of the law sought to be modified in relation to the project. Where a law requires something to be done that has already been achieved by other processes and would not examine or deal with any new issues, that may be unnecessarily duplicative. Where a law does not provide a pathway for approval for a project involving a novel technology for no good reason other than the statute being out of step with contemporary project design, that may be an unreasonable impediment.

Subsection (1)(b) requires that the Minister be satisfied that the order is necessary, to achieve either of the following:

- preventing or reducing duplication of a process or requirement applying to the project; or
- to exclude or modify a process or requirement applying to the project that does not provide or appropriately provide for a project of that kind.

Duplication of processes generally is reasonably self-evident but must nonetheless be made out for an order to fall within the subsection (1)(b)(i) criteria. The subsection (1)(b)(ii) criteria may arise where a regulatory process or requirement did not anticipate or does not properly contemplate a project of the type proposed. This might be a project of a type which could not be reasonably foreseen during the development of a regulatory scheme, or one that combines aspects/technologies in a way that makes it unable to be progressed effectively under existing permitting frameworks.

The subsection (1)(b)(ii) criteria may also provide for a project where it is of a familiar type, but where its location or characteristics impede its progression. For example, it may be located in an area for which localised statutory plans (such as water plans or land use schemes) are outdated and do not effectively provide for the project, despite its overall significance to the State. A modification order could allow for timely progression of such a project, ahead of more substantive widespread updates of relevant plans. Such examples are not exhaustive.

Subsection (1)(c) requires the Minister to be satisfied that the order will not give rise to significant detrimental environmental effects, or that any such effects can be effectively managed either under another Act (e.g. via a subsequent approval process) or by conditions imposed by the order itself. This test relies on the broad definitions of *environment* and *environmental effects* under schedule 2 of the SDPWO Act, which extends to social, economic, aesthetic, and cultural dimensions in addition to ecological ones.

Subsection (1)(d) provides that the Minister must also be satisfied that the order would not have a significant detrimental effect on the achievement of the object of the relevant law that would be affected by the order, or that if such an effect occurs, it is outweighed by benefits to the State of the project proceeding. The provision safeguards the objectives and intentions of laws and ensures that such objectives are given proper weight when considering making a modification order.

Subsection (2) requires the Minister to consult with certain persons with a connection to the relevant law or project before recommending the making of the order to the Governor in Council to ensure the Minister is best informed about the possible effects of the order. The section purposely does not set a timeframe; the Minister is to consult with the persons listed in the manner and for the length of time that is reasonably appropriate in each circumstance, taking into account the substance of the order.

Section 76RJ Order can not override requirement for key authorisation

The purpose of this section is to safeguard the requirement for a project to gain and comply with key authorisations, which are defined at subsection (3). These are major, principal permissions that projects must obtain, or requirements that must be complied with.

For example, this section protects the requirement to obtain an environmental authority for a resource project; to gain a consent of an owner of land, for example in relation to authorities

for a protected area under the *Nature Conservation Act 1992*; to be granted a development approval under the Planning Act*;* or to comply with the terms of a covenant.

The circumstances in which a key authorisation may be granted or a process or requirement that applies in relation to a key authorisation may be modified or excluded. Additionally, another authorisation's non-inclusion in this list does not necessarily mean it can or cannot be excluded. All proposed modifications are subject to the validity conditions established elsewhere in division 3B.

Section 76RK Order can not substitute particular decision-makers

This section protects the principle of Ministerial responsibility by preventing a modification order from affecting a decision required to be made by a Minister such that it could be made by another entity.

This section also ensures a modification order cannot result in a decision required to be made by the Governor, or the Governor in Council, being made by another entity.

Section 76RL Order can not be made for particular provisions

Section 76RL prevents modification orders from interfering with certain type of provisions.

The effect of subsection (a) is that, where an assessment process under a State law (such as the coordinated project assessment pathway under Part 4 of the SDPWO Act) is incorporated into a bilateral agreement made under the Commonwealth Environment Act, that process cannot be modified to the extent that it is providing for assessment of the State strategic project for the purposes of the Commonwealth Environment Act.

Similarly, subsection (b) provides for scenarios where the Minister for the Commonwealth Environment Act has decided, under section 87(4) of that Act, that an assessment process under a State law will be used to assess a controlled action. In that circumstance, new section 76RL prevents modification of the process under State law to the extent it is providing for assessment of the State strategic project.

The provision also protects the rights and interests of Aboriginal and Torres Strait Islander peoples (such as provided by the *Native Title Act 1993,* and Queensland Acts that require or have regard to indigenous land use agreements) by preventing an order that would interfere with such rights and interests.

Section 76RM Restriction on excluding or modifying liability for State taxes and other amounts

The purpose of section 76RM is to prevent a modification order from interfering with laws governing revenue. Orders will be prevented from modifying or excluding liability to pay the things defined as *State taxes* – which includes taxes, royalties, duties, levies and the like – and fees and charges such as licence fees or application fees. This reflects the policy objective that modification orders are intended to deal with regulatory challenges, rather than issues of a project's financial feasibility.

Subsection (1)(a)(ii) further set outs that provisions that provide for payment or recovery of unpaid amounts cannot be modified or excluded. For example, section 20 of the *Mineral and Energy Resources (Common Provisions) Act 2014* prevents the transfer of resource authorities (such as a mining lease) unless and until an outstanding royalty liability is paid. Such a

provision provides for the payment of a State tax and therefore cannot be excluded or modified pursuant to subsection (1)(a)(ii).

Subsection (2) provides for an exception to the prohibition on modifying fees and charges. An order may modify provisions to the effect of waiving (in whole or in part) a liability to pay fee or charge where the process or application under an Act with which the fee or charge is associated has been modified by the modification order, and the Minister is satisfied that the amount ordinarily payable would be unreasonable.

For example, a modification order may substantially streamline a process or remove a duplication, resulting in the liability for an application fee being larger than the cost of the effort expended by the government in dealing with the application or process. In such an instance it may be unreasonable to charge the ordinary amount of the application fee, as government policy is that application fees and charges should reflect cost recovery. A modification may therefore be warranted.

In coming to such a satisfaction, the Minister is to seek the advice of the Treasurer, to ensure proper regard to financial policy settings and the operation of state revenue laws.

Section 76RN Restriction on excluding or modifying review or appeal

The purpose of this section is to allow for a modification that affects a person's review or appeal rights only where compliant with the requirements of the section. This provides a clear head of power for modification or exclusion of such rights, but in accordance with subsection (2), only where a decision made under a modification order is to approve (with or without conditions) either the State strategic project in whole, some aspect or part of the project, or another matter that relates to the project (e.g. the calculation of a levied charge under the Planning Act, which is not its approval but relates to the project).

The effect of subsection (2) is that a modification order cannot remove a right to review or appeal where the decision is to refuse the project, preserving a right to relief for a person who is denied the right to do something permissible under a law.

Subsection (3) ensures the applicant maintains a right to appeal, and separately, that access to administrative review is available by preventing a modification order from excluding or modifying the application of the *Judicial Review Act 1991*.

Apart from excluding or modifying the right to appeal or review itself, the section also allows for modifications to such processes corollary to the primary effects of an order. To appropriately account for the effects of a modification, subsection (4) allows for a modification order to also modify a process of appeal or review to ensure that, in such a proceeding, proper regard is had to the effect of the modification order on the subject decision.

Section 76RO Compliance with condition

The purpose of this section is to establish an offence for failure to comply with any conditions placed on the order, with the maximum penalty aligned to penalties for noncompliance with other conditions imposed under the SDPWO Act for control of development impacts. Subsection (3) declares that contravention of a condition does not affect the operation of the order.

A condition of a modification order is an enforceable condition for the purposes of Part 7A of the SDPWO Act, in accordance with the amended section 157A. This makes the Coordinator-General's suite of enforcement tools available to undertake compliance for a modification order.

Section 76RP Effect of modification order

Section 76RP provides that where the modification order excludes or modifies the application of a provision of an Act, the Act applies as provided for by the modification order.

It also clarifies that if there is a condition or requirement under the modified law that applies to the project, it is of no effect to the extent it is inconsistent with the order or a condition in the order.

Section 76RQ Amending or repealing modification order

This section provides for amendment or repeal of a modification order. To inform the making of the change and the recommendation, the Minister must first give each relevant entity (as defined at subsection (3)) a notice stating the proposal to repeal or amend and inviting submissions about the proposal. The Minister must have regard to each submission in making the recommendation to repeal or amend the order to the Governor in Council.

Subsection (2) applies if the order had a currency period stated and that period has ended, or if the Minister is satisfied that the modification order is no longer in effect (such as where the modified event has passed, process completed, or State strategic project declaration expired), or if the order is being repealed by a regulation which includes and order with substantially the same effect. In those circumstances the Minister may make the recommendation for repeal to the Governor in Council without undertaking the consultation process described in subsection (1). This is to facilitate the orderly and efficient management of the statute book where an order is no longer required.

Section 76RR Transitional arrangements for amendment or repeal of order

Section 76RR provides that where a modification order is amended or repealed and the project has not started, or has started but not completed, a regulation may provide how each relevant Act applies to the project after the amendment or repeal and that it may provide for matters of a transitional nature. This provision will provide for an orderly transition from a modification order where it is amended or ended.

Clause 23 Amendment of s 76W (Application of Judicial Review Act 1991)

Clause 23 amends section 76W to exclude certain decisions of the Minister related to the State significance notice from review under the *Judicial Review Act 1991*. The decisions are the decision to give a State significance notice, or a decision of the Minister to give the decision maker the advice notice described at section 76RD(4).

The purpose of this amendment is to align State significance notices with other decisions related to State strategic projects that are excluded from review under section 76W. This is intended to ensure that the purposes of the inclusion of Part 5A are fulfilled, given the role of the function as a means of prioritising and enabling the delivery of State strategic projects as quickly as possible.

While the provisions will remove the right to judicial review for these decisions under the *Judicial Review Act 1991*, these provisions cannot oust the Supreme Court's inherent jurisdiction. As such, the provisions do not exhaust the right to review of a decision. If a person or persons so wished, they could still bring action before the Supreme Court of Queensland.

The decision subject of the notice itself remains open to judicial review.

This clause also amends references to critical infrastructure projects within section 76W, replacing them with reference to State strategic projects.

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

Clause 24 amends section 79A of the Act which provides for the content of approved development schemes for State development areas. The changes to section 79A cover several different policy issues, which are each detailed below.

Amended subsection (1) extends the operation of an approved development scheme to regulate development in all or part of the State development area to include development which is outside of the State development area, if the development is SDA-related development for the State development area.

Amended subsection (3)(b) includes a new item, to specify that an approved development scheme may prescribe a process for the Coordinator-General to approve plans of subdivision for land in the State development area. The amended subsection (3)(b) supports new provisions in division 2B, subdivision 2 which relate to existing SDA applications and approvals in the event an approved development is varied or abrogated to no longer regulate development.

Subsection (3) is amended to include a new item (d), which provides that a development scheme may prescribe the circumstances in which the Coordinator-General may accept an application under section 84D.

Subsection (3) is also amended to include a new item (e), which specifies that an approved development scheme may identify development, other than development that is to be carried out entirely within the State development area, as SDA-related development for the State development area. SDA-related development identified in a development scheme under section 79A is distinct from SDA-related development declared under Division 1A and that declaration process does not apply. This is clarified through section 85B(b).

Subsection (4) outlines the considerations that the Coordinator-General must be satisfied of, prior to the identification of SDA-related development within an approved development scheme.

Subsection (5) identifies the requirements for a development scheme where it identifies SDA-related development.

Clause 25 Insertion of ss 81A and 81B

Clause 25 inserts new sections 81A and 81B relating to *SDA rules*.

Section 81A Making SDA rules

Section 81A provides that the Coordinator-General may make an instrument prescribing or stating matters mentioned in section 79A(3)(b), (c) or (d). The intent of this provision is to permit a standalone instrument to be prepared which contains processes and requirements for making, assessing and deciding applications and requests within State development areas.

Subsection (2) specifies that the rules do not take effect unless approved by the Minister and the Governor in Council and commence the day notification is provided by the Coordinator-General by gazette or a later date specified in the rules. Subsection (3) lists the specific notification requirements of the Coordinator-General by gazette and publishing of a copy on the department's website. Subsection (4) gives a name for the instrument, the *SDA rules*.

Section 81B Application of SDA rules to State development area

Section 81B(1) provides that the *SDA rules* apply in relation to State development area, to the extent the approved development scheme does not provide for the matter, and the rules for the matter are not inconsistent with the approved development scheme. This allows an SDA development scheme to retain all or some of the process matters for SDA applications and requests where necessary, which prevail over the *SDA rules*.

Subsection (2) provides that if the SDA rules apply to a matter for a State development area, a reference in the SDPWO Act is taken to include a reference to the SDA rules for that matter. This provision ensures that when applying the SDPWO Act to process matters under section 79A, the appropriate instrument for that State development area, whether it is the approved development scheme or the *SDA rules*, is considered.

Subsections (3) and (4) provide that an approved development scheme can be varied under section 80 (Approval, implementation, and variation of development scheme) to remove a process for a matter in section 79(3)(b) so that the *SDA rules* apply for that matter. These provisions clarify the process for having the *SDA rules* take effect where there is an existing SDA development scheme in place, and that the *SDA rules* have effect regardless of when they were made.

Clause 26 Amendment of s 83 (Disposal of land in State development area)

Clause 26 amends section 83 of the Act to limit the application of section 83 to only land which was taken or acquired by the Coordinator-General under section 82. The intention of this change is to ensure that land otherwise acquired by the Coordinator-General, such as commercially purchased is not subject to the section 83 restrictions.

Section 83(2) is also amended to remove a restriction on how the Coordinator-General may dispose of land within a State development area. The amendment allows the Coordinator-General to dispose of land either for the purposes of implementing the approved development scheme or for another purpose the Coordinator-General considers appropriate, with the approval of Governor in Council. Subsection (3) is also amended to align with the revised wording in subsection (2).

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

Clause 27 amends section 84(1) to include both regulated development that is in the State development area and development that is SDA-related development for the State development area. The change extends the operation of section 84(2) to SDA-related development identified in an approved development scheme, such that for SDA-related development, any other Acts or laws that regulate the development do not apply to the development to the extent those Acts or laws regulate the development. Section 84 does not displace other Acts or laws entirely, only their operation where it pertains to regulating the SDA-related development. SDA-related development declared under new section 85D is not captured by the change to section 84, as it would be inappropriate for such a declaration to override other Acts and laws in this manner.

Section 84 is also amended to include new subsection (3), which makes existing 84(2) subject to new section 85A. New section 85A relates to the application of relevant laws to particular development, use or works and is explained under the clause 36 changes.

Clause 28 Amendment of s 84A (Carrying out SDA assessable development without SDA approval)

Clause 28 amends section 84A of the Act to remove the wording 'in a State development area'. The removal of this wording ensures the offence provisions under s 84A also apply to SDA-related development, which is not entirely within the boundary of the State development area. The offence provisions will remain directly applicable to a person carrying out SDA assessable development without an SDA approval.

Clause 29 Amendment of s 84B (SDA self-assessable development must comply with approved development scheme)

Clause 29 amends section 84B of the Act to require persons carrying out SDA self-assessable development to comply with the requirements for carrying out the development:

- under the relevant approved development scheme, which includes SDA-related development identified under section 79A as SDA self-assessable in that scheme, or
- if the development is declared as SDA-related development, the requirements decided by the Coordinator-General in that declaration.

Clause 30 Amendment of s 84D (How to make SDA application)

Clause 30 amends section 84D of the Act to permit the Coordinator-General to waive all or part of the application fee for an SDA application by written notice to the applicant. The clause also amends section 84D(1)(c) to provide that each SDA application must be accompanied by the application fee prescribed by regulation, less any amount waived by the Coordinator-General. *Clause 30* also inserts a note to clarify that an approved development scheme may prescribe the circumstance that an application may be accepted, under section 79A.

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

Clause 31 amends section 84E of the Act to state that in deciding an SDA application, the Coordinator-General must consider the approved development scheme applying to the State development area. The change clarifies that the approved development scheme for the SDA is a consideration for the Coordinator-General in deciding an SDA application.

The amendment also inserts a new subsection which provides that for deciding SDA-related development, the Coordinator-General may give the weight considered appropriate, to other instruments that would have regulated the development if it were not SDA-related development. Examples are included, however the specific instrument/s will depend on the particular SDA-related development and the Act or law that would have otherwise applied to the development. The provision allows the Coordinator-General to give appropriate consideration to assessment criteria that would have otherwise applied to the SDA-related development.

Clause 32 Insertion of new ss 84EA and 84EB

Clause 32 inserts a new section 84EA and 84EB relating to the Coordinator-General's power to impose conditions about infrastructure charges and environmental offsets.

Section 84EA Condition about infrastructure charges

Section 84EA provides that a condition of an SDA approval under section 84E, may require the payment of charges to contribute to the costs of infrastructure for the area. Infrastructure is defined within schedule 2 of the SDPWO Act.

Subsection (2)(a) provides that an infrastructure charge condition may apply regardless of whether the Coordinator-General is responsible for constructing, maintaining or operating the infrastructure. Subsection (2)(b) allows an SDA approval condition to require payment of charges to an entity who is responsible for constructing, maintaining or operating the infrastructure. This provision allows the Coordinator-General to issue an infrastructure charge and require payment directly to the relevant infrastructure entity, such as a local government or Government owned corporation, to streamline payment of the charges.

Subsection (3) provides that, where a condition is placed on an SDA approval for the payment of infrastructure charges, another charge may not be applied under the Planning Act. The circumstances where a development under the Planning Act may not be the subject of an infrastructure charge is also established. For example, a charge may not be levied as a result of a building works approval under the Planning Act, where the material change of use which relates to the building works was the subject of an SDA approval and conditioned to require an infrastructure charge.

Subsection (4) provides that subsection (3) applies despite the Planning Act, but is subject to section 85ZF(2). Section 85ZF(2) deals with infrastructure charges resulting from a change to an SDA approval that has been converted to a development approval under the Planning Act.

Section 84EB Condition about environmental offsets

Section 84EB provides that a condition imposed by the Coordinator-General on an SDA approval may require or otherwise relate to an environmental offset, under the *Environmental Offsets Act 2014*. Section 84EB permits an offset condition on an SDA approval can be dealt with in accordance with the processes established in the *Environmental Offsets Act 2014*. To give effect to this conditioning power, a change is also made to schedule 1 of the *Environmental Offsets Regulation* (see clauses Clause 62 and Clause 63).

Clause 33 Amendment of s 84F (Application to change SDA approval)

Clause 33 makes a consequential amendment to allow for the operation of new section 84EA (condition about infrastructure charges) and 84EB (condition about environmental offsets) when making a change to an SDA approval. The change allows a condition imposed on an SDA approval resulting from a change application under section 84F to be for infrastructure charges under section 84EA or an environmental offset under section 84EB.

Clause 34 Amendment of s 84H (When SDA approval lapses)

Clause 34 amends section 84H to align currency period provisions for SDA approvals with contemporary legislative provisions. Specifically, amendments are made to:

- insert a new subsection which states that an SDA approval does not lapse, where for a material change of use, the first change of use happens before the currency period ends. This change replaces the current lapsing terminology of a development substantially starting from applying to a material change of use.
- Amend the default currency period for a material change of use to 6 years, and for all other development 4 years after the day the approval has effect. The change does not restrict the Coordinator-General from stating a different currency period on an SDA approval. A longer default currency period for material change of use approvals allows additional time for proponents to obtain secondary approvals.
- introduces new provisions to clarify the lapsing date where an applicant requests an extension to a currency period for an SDA approval. The provision ensures that an SDA approval continues to have effect until the Coordinator-General decides the extension request, even if the original lapsing date passes.

Clause 35 Amendment of s 85 (Carrying out particular development, use or works not an offence)

Clause 35 inserts a replacement subsection (3)(b) to require the owner of land making a prior affected development request to make that request within 2 years after the approved development scheme started to apply to the land. The intent is to provide a time limitation on making the request, to ensure the opportunity for a landowner to carry out prior affected development does not continue in perpetuity.

Clause 36 Insertion of new s 85A and new pt 6, divs 1A and 1B

Clause 36 inserts a new section 85A, which provides for a mechanism to address existing development approvals that are in effect when an SDA is declared. The clause also inserts a new division 1A for SDA-related development, and division 1B to address instances where development becomes no longer regulated by a development scheme for an SDA.

Section 85A Application of relevant law to particular development, use or works

Section 85A provides for the ongoing effect of a relevant law to particular development, use or works following an approved development scheme taking effect. The intent is to allow for the continued operation of another act or law in a limited manner, for certain lawful uses or works or development. Subsection (1) provides that the section may only apply where:

- the works or use were lawfully being carried out and after an approved development scheme applies to the land, and the person continues the use or works (section 85(2))
- there was a prior affected development for the land and the Coordinator-General approved the request to carry out a prior affected development for land (section 85(4)).

Subsection (2) provides for the continuing effect of the relevant law.

Subsection (3) however, limits the effect of the law insofar that an application may not be made for a new or substantially different use or works or development, or to extend the period which the use or works or development can be carried out. Examples of applications that could be made are certain minor changes or a cancellation application.

Subsection (4) provides that, to remove any doubt, the offence and enforcement provisions of the relevant law as they apply to the use or works or development continue to apply. For example, this section clarifies that a local government may remedy development offences under the Planning Act where they relate to compliance with a development approval issued by the local government.

Subsection (5) defines *approval* and *relevant law* for the section.

Division 1A SDA-related development

Division 1A provides for SDA-related development, a mechanism to allow the Coordinator-General to regulate development which is outside of the boundary of a State development area. Sections 85B to 85F provide for the declaration of SDA-related development. The declaration of SDA-related development is not an approval of the development, but a process to allow the Coordinator-General to regulate that development under the relevant development scheme and the SDPWO Act.

Section 85B Application of division

Section 85B limits the application of the division, where it cannot apply to development wholly contained within a State development area or SDA-related development that is already stated in the approved development scheme.

Section 85C Consultation required before declaring SDA-related development

Section 85C provides the consultation requirements prior to the declaration of SDA-related development. The section requires the Coordinator-General consult, in the way the Coordinator-General considers appropriate, with each local government whose area the development is proposed to be located, and each port authority in whose strategic port land area the development is proposed to be located. Reasonable endeavours must also be made to consult with any government entity, government owned corporation or other entity the Coordinator-General considers will be likely to be affected by the declaration.

Section 85D Declaration of SDA-related development

Section 85D subsection (1) provides for the declaration of SDA-related development through a gazette notice. Subsection (2) provides the reasons for which SDA-related development may be declared. The declaration may only be made where the Coordinator-General is satisfied another Act or law that regulates the development would have an adverse effect on its delivery and either:

- the SDA-related development is for infrastructure for the State development area to address impacts of any development within the area, whether or not the infrastructure has another purpose; or
- the SDA-related development is necessary or desirable to give effect to the purpose of, or objectives for, the State development area stated in its development scheme and cannot reasonably be located or accommodated entirely within the State development area.

These considerations are intended to ensure appropriate consideration is given to whether the SDA-related development declaration is the appropriate mechanism to regulate the proposed development.

Subsection (3) requires that an SDA-related development declaration must not compromise the implementation of the approved development scheme. This ensures that an SDA-related development declaration would not be inconsistent with the policy intent for the relevant SDA, as expressed through the approved development scheme.

Subsection (4) requires, in making a declaration, to decide whether the SDA-related development would be SDA assessable or SDA self-assessable development and, if the latter, identify the requirements for carrying out the SDA self-assessable development.

Section 85E Content of declaration

Section 85E sets out the minimum required content for a declaration for SDA-related development. The section requires the gazette notice to include:

- the State development area the SDA-related development relates to;
- a description of the land the SDA-related development is proposed on;
- a description of the development, which could include references to plans and supporting materials;
- the matters forming the consideration to make the declaration under section 85D(2); and
- whether the development is SDA assessable or SDA self-assessable development, and for the latter any requirements for the SDA self-assessable component.

Section 85F Notice of declaration

Section 85F sets the requirements for the notification of an SDA-related development declaration. As soon as practicable after declaration, the notice must be published on the department's website, and a copy must be given to each local government and port authority whose area the development is proposed to be located, the owner of the land on which to the development is to be located, and any entity consulted under section 85C.

Division 1B Ceasing regulation under approved development scheme

Division 1B provides processes and mechanisms for when development ceases to be regulated by an SDA development scheme. For the purposes of division 1B, cessation of regulation could occur as a result of:

- a variation of the development scheme under section 80 to either remove regulation of certain aspects of development, or to excise an area of land from regulation; or

- an abrogation of a development scheme under section 81. This could be related to a revocation of a State development area under section 77.

Subdivision 1 Planning instrument to regulate development

Subdivision 1 provides the considerations that are required as part of ceasing regulation under a development scheme and allows for the making of an interim planning instrument by the Coordinator-General. The intent of this subdivision is to ensure that, as part of the considerations to cease regulation, regard is given to whether the underlying planning system that will regulate development after the cessation is fit for purpose. The subdivision is not intended to burden or unduly constrain either the Coordinator-General or the new regulator, but rather ensure they have an appropriate development assessment framework to regulate development following cessation.

Section 85G Definitions for subdivision

Section 85G provides definitions for subdivision 1 *excluded development*, *interim planning instrument*, *relevant local government* and *SDA change*.

Section 85H Ceasing regulation under approved development scheme

Section 85H provides the considerations for when a decision is to be made to no longer regulate development under an approved development scheme.

Subsection (1) states the section applies where a decision is to be made under either section 80 or section 81 (referred to as an SDA change) that results in development no longer being regulated (referred to as excluded development).

Subsection (2) provides that an SDA change may only be made where the Coordinator-General considers the excluded development is appropriately dealt with in the following instruments:

- in a local government planning instrument;
- by new, or an amendment to an existing local government planning instrument that will have effect at the same time as the SDA change; or
- by an interim planning instrument prepared and approved by the Coordinator-General.

Subsection (3) however limits the application of subsection (2) where the excluded development relates to strategic port land.

Section 85I Coordinator-General may prepare instrument providing for excluded development

Section 85I(1) provides that the Coordinator-General may prepare an interim planning instrument to deal with the excluded development. The intent is to allow the Coordinator-General to remedy instances where the Coordinator-General does not consider the underlying planning instrument to appropriately deal with the excluded development.

Subsection (2) requires the Coordinator-General to consult with the relevant local government in preparing the interim planning instrument, and any other government entity or government owned corporation likely to be affected.

Section 85J Approval of interim planning instrument

Section 85J(1) provides an interim planning instrument has no effect unless approved by the Minister administering the SDPWO Act.

Section 85J(2) provides the considerations for the Minister in approving the interim planning instrument. These include:

- that it is in the State's interest the SDA change is made as soon as possible; and
- the time needed for making or amending the relevant local government's planning instrument would unduly delay making the SDA change; and
- the interim planning instrument is generally consistent with how the excluded development was dealt with under the development scheme.

The considerations in subsection (2) ensure the interim planning instrument is reserved as a tool for when a timely SDA change must be made, that would otherwise be unreasonably delayed by the local government making or amending a planning instrument. The considerations also ensure the interim instrument is generally consistent with the outgoing development scheme. This provides certainty to landholders and stakeholders during the SDA change.

Section 85K Effect of interim planning instrument

Section 85K provides for the effect of the interim planning instrument approved under section 85J. The provisions are intended to be generally consistent with the effect of a temporary local planning instrument made under the Planning Act.

Subsection (1) provides that the approved interim planning instrument is taken to be a temporary local planning instrument made by the local government under section 23 of the Planning Act. Section 23 of that Act relates to making or amending temporary local planning instruments.

Subsection (2) provides that the interim planning instrument may suspend or otherwise affect a local planning instrument but does not amend or repeal the instrument.

Subsection (3) provides that the planning instrument change does not create a superseded planning scheme and is not an adverse change under the Planning Act.

Subsection (4) provides that the interim planning instrument has effect for two years or a shorter period stated in the instrument, unless repealed.

Subsection (5) provides that the instrument takes effect at the same time as the SDA change.

Subsection (6) provides the effect of section 85K despite the provisions in the Planning Act.

Section 85L Notice of interim planning instrument

Section 85L provides the notification requirements after an interim planning instrument takes effect. Subsection (1) requires the Coordinator-General to publish the instrument on the department's website and publish a public notice stating the instrument may be inspected on the website. The local government must also publish the instrument on its website. Subsection (2) defines *public notice* for the purposes of the section.

Subdivision 2 Existing SDA approvals and applications

Part 6, Division 1, Subdivision 2 provides for current SDA approvals and applications where a decision is made to vary or abrogate an approved development scheme such that development that was previously regulated is no longer regulated by the development scheme. The subdivision provides for the conversion of SDA approvals to Planning Act approvals and ensures that current SDA applications and requests are appropriately dealt with despite the development scheme no longer regulating the development.

Section 85M Application of subdivision

Section 85M provides that subdivision 2 applies to development that is no longer regulated by an SDA development scheme, defined as *former SDA development*. Former SDA development includes development in all or part of the State development area or SDA-related development.

Section 85N Definitions for subdivision

Section 85N defines *former SDA development* and *relevant approved development scheme* for subdivision 2.

Section 85O References to cessation

Section 85O provides that references to cessation the purposes of the subdivision, is a reference to the time when development ceases to be regulated under a relevant approved development scheme.

Section 85P Existing SDA approvals

Section 85P provides for SDA approvals to be converted to *development approvals*, following cessation of regulation by a development scheme. Development approval is defined in schedule 2 of the SDPWO Act to be a development approval under the Planning Act. The section provides continuity for SDA approvals following cessation, and also identifies the time the SDA approval is considered to be a *development approval,* which may be required to administer currency periods and conditions which refer to when the SDA approval was originally issued.

Section 85Q Existing SDA applications

Section 85Q applies to an SDA application made but not decided prior to cessation. Subsection (2) allows the SDA application assessment to continue as if cessation had not happened, and any SDA approval is taken to be a development approval under the Planning Act immediately after. The intent of the provision is to provide certainty to outstanding SDA applications and avoid adverse outcomes such as the SDA application lapsing or the assessment having to restart.

Section 85R Existing change applications

Section 85R applies where a change application is made but not decided prior to the SDA change. These applications are to continue to be decided as if cessation had not happened, the SDA approval were still an SDA approval, and the change were being decided immediately before cessation. The intent of the provision is to provide certainty to outstanding change applications and avoid adverse outcomes such as the change application lapsing or the assessment having to restart.

Section 85S Existing request to state later currency period

Section 85S provides for where a request to state a later currency period of an SDA approval has been made but not decided prior to the cessation. The section provides that the request to state a later currency period will continue to be assessed as if cessation had not occurred, following the process under the previous development scheme. The section provides that where a decision to approve a later currency period for the SDA approval is made, the SDA approval with an amended lapse date, is taken to be a relevant approval under the relevant act on the day the request is decided. If the request is refused, the lapse date for the SDA approval is as per the original approval (now a relevant approval under the relevant act), or on the day the decision is communicated to the applicant where the original lapse date has passed.

Section 85T Process for approving plans of subdivision

The intent of this amendment is to ensure decisions by other parties are not affected by the change in regulatory authority. The section applies where a request to approve a plan of subdivision, in relation to an SDA approval, was made to the Coordinator-General but not decided, prior to cessation. The request to approve the plan will continue to be assessed as if cessation had not occurred, following the process under the previous SDA development scheme. The section provides that anything done under the section by the Coordinator-General in relation to the plan is taken to be an action of the local government.

Section 85U Registering particular plans of subdivision approved before cessation

Where a plan of subdivision, in relation to an SDA approval, was approved by the Coordinator-General but not registered under the *Land Title Act 1994* prior to cessation, this section applies. The section provides that anything done by the Coordinator-General is taken to have been done by the relevant local government for the purposes of the *Land Titles Act 1994*. This saving provision ensures that requirements under other legislation are still able to be complied with despite the change in regulatory authority caused by cessation.

Section 85V Lawful use of premises

Section 85V provides that if immediately before an SDA cessation, a use of premises is a lawful use of premises, the use is taken to be a lawful use under the Planning Act. The application of this section also applies for SDA-related development. The intent of this provision is to ensure lawful uses resulting from decisions made with respect to the State development area, continue to be lawful following the approved development scheme no longer applying.

Subdivision 3 Dealing with converted SDA approvals

Part 6, Division 1, Subdivision 3 provides for how SDA approvals that have been converted to development approvals, are to be dealt with under the Planning Act. The subdivision addresses a range of circumstances where the Planning Act may not otherwise appropriately deal with the converted development approval. The provisions in subdivision 3 are intended to provide certainty to approval holders and regulators on how to deal with converted development approvals by addressing legislative gaps.

Section 85W Application of subdivision

Section 85W provides that the subdivision applies to an SDA approval that becomes a development approval under the Planning Act.

Section 85X Conditions and enforcement authorities under Planning Act

Section 85X (1) provides that an SDA approval condition is taken to a be development approval condition under Planning Act, even if that condition could not be imposed under the Planning Act. This subsection recognises that the conditioning power provided to the Coordinator-General differs from that under the Planning Act, and ensures all SDA approval conditions continue to be lawful despite the application of the Planning Act to the development approval.

Section 85X (2) identifies the appropriate enforcement authority under the Planning Act for the converted development approval.

Section 85Y Proceedings about development approvals

Section 85Y provides for how proceedings under the Planning Act in relation to converted development approvals may be dealt with.

Subsection (1) provides that despite section 229 of the Planning Act (appeals to tribunal or Planning and Environment Court), a person may not appeal the development approval or its conditions, or a decision made under the SDPWO Act in relation to the development approval or its conditions. This subsection provides for the protection from merit-based appeals for SDA approval decisions, despite the Planning Act's application to the approval.

Subsection (2) provides subsection (1) does not limit appeal rights under section 229 of the Planning Act in relation change applications or extension applications made under the Planning Act.

Subsections (3) and (4) provides that a declaration proceeding under the *Planning and Environment Court Act 2016* for a development approval or its conditions, or a decision under the SDPWO Act in relation to the approval or its conditions may only be brought by an enforcement authority identified under section 85X.

Section 85Z Lapsing of development approvals

Section 85Z deals with how lapsing periods for converted SDA approvals should be dealt with. For converted SDA approvals, section 84H of the SDPWO Act continues with the relevant changes identified in section 85Z.

Section 85ZA Extension applications for development approvals

Section 85ZA provides the ability for an SDA approval, that has been converted to a development approval under the Planning Act, to have the currency period extended under the new legislation that applies. Subsection (1) identifies the appropriate currency period, with reference to section 85Z and provides for the relevant assessment manager and referral agencies. Subsection (2) identifies the relevant planning provisions applying to the application.

Section 85ZB Changes to development approvals that are minor changes for Planning Act

Section 85ZB varies the application of the Planning Act, as it relates to a change application for an SDA approval that has been converted to a development approval under the Planning Act. Section 85ZB provides the considerations of whether a change is minor, having regard to considerations of substantially different development, prohibited development and public notification requirements.

Section 85ZC Responsible entities for change applications for development approvals

Section 85ZC identifies the responsible entity for a change application made under the Planning Act for a converted SDA approval. The section provides that despite the Planning Act, the responsible entity is:

- if the change is to a condition that was a condition of the SDA approval – the entity prescribed by regulation; or
- the entity that would be the prescribed assessment manager for development the subject of the approval, including the change, at the time the change application is made.

Section 85ZD Change applications for development approvals

Section 85ZD establishes how the change applications under the Planning Act for converted SDA approvals should be dealt with. Section 85ZD details the relevant planning provisions with appropriate modifications to account for the fact the development approval was originally an SDA approval.

Section 85ZE Cancellation applications for development approvals

Section 85ZE establishes how the cancellation applications under the Planning Act for converted SDA approvals should be dealt with. Subsection (1) provides how a reference to an assessment manager and referral agency under the Planning Act should be interpreted. Subsection (2) identifies the relevant planning provisions for the cancellation application.

Section 85ZF Other matters about development approvals

Section 85ZF provides for other matters about development approvals that have been converted from SDA approvals.

Subsection (1) provides that a local government must not give an infrastructure charges notice for the approval. Charges for contribution to infrastructure are a consideration for the Coordinator-General's assessment of the SDA application and if appropriate, a condition relating to charges would have been included on the SDA approval under section 84E. Subsection (1) ensures additional charges are not levied purely as a result of an SDA approval being converted to a development approval under the Planning Act.

Subsection (2) provides that for a change or extension application made under the Planning Act for a converted SDA approval, an infrastructure charges notice which relates to the change or extension may be given. A charge may only be levied based on the additional demand or impact resulting from the change or extension, as subsection (1) does not permit a charge to be levied on the converted SDA approval.

Subsection (3) provides that subsection (2) applies despite section 84EA(3), which may otherwise prevent a charge on a change or extension application.

Subsection (4) provides that a person may not make a conversion application in relation to a condition that was a condition on the original SDA approval. This provides certainty for any conditions and obligations relating to infrastructure set on the original SDA approval.

Subsection (5) establishes a new power to make a regulation to:

- state the entity for the giving or approving of a document or thing in a condition of approval in place of the Coordinator-General, recognising that depending on the development approvals impacted by cessation, specific provisions may be required to ensure the conditions of SDA approvals continue to have appropriate effect.
- make provision about other matters to give effect to the conversion of SDA approvals where the Act does not make sufficient provisions, recognising that depending on the circumstances of cessation and the SDA approvals impacted, specific provisions may be required to ensure the preservation of rights and responsibilities under those approvals.

Clause 37 Amendment of s 125 (Power of Coordinator-General to take land)

Clause 37 amends section 125(1)(f) to replace the reference of a private infrastructure facility as a purpose for which land may be taken, with a State strategic project where the Governor in Council may approve the making of a regulation. That is, not all State strategic projects will have the compulsory acquisition powers available to them, but only those approved by the Governor in Council following the application process.

A consequential amendment is also made to section 125(2) to reflect the new process for State strategic projects.

Clause 38 Amendment of s 125A (Power of Coordinator-General to take public utility easement)

Clause 38 amends section 125A(3)(a) to refer to section 142, as a consequential amendment to give effect to the new process for compulsory acquisition for State strategic projects created by Clause 39.

Clause 39 Replacement of pt 6, div 7 (Infrastructure facilities)

Clause 39 replaces the 'infrastructure facilities' division which previously provided land entry provisions through an investigator's authority and compulsory acquisition of land for private infrastructure facilities.

The new division 7 establishes the provisions about taking land for State strategic projects. The operative provisions are largely reflective of the previous private infrastructure facility framework.

Division 7 Provisions about taking land for State strategic projects

Subdivision 1 General matters

Section 141 Purpose of division

This section creates a new purpose for division 7, which is to provide for matters about the Coordinator-General's power to take land for a State strategic project.

Section 142 Requirements for Coordinator-General's power to take land for project

Section 142 provides threshold matters of which the Coordinator-General must be satisfied of following the making of the regulation under new section 143, before commencing the compulsory acquisition process.

Section 143 Regulation may declare project as purpose for taking land

To provide for a suitable level of authority to enable land acquisition, section 143 provides that the Governor in Council may approve the making of a regulation that declares the State strategic project as a purpose for which land may be taken, only where the prescribed criteria are met.

The criteria includes that the Coordinator-General has endorsed the project following assessment of the application, the proponent has complied with the requirements to make one final unconditional offer to purchase the land by agreement, the proponent has the financial and technical capability to undertake the project in a timely way and it is in the interests of the State that the land be taken to facilitate the delivery of the project. These requirements are largely continued from the removed private infrastructure facility framework, to ensure that applicants for acquisitions are genuine and have made all possible efforts in good faith to negotiate a commercial outcome with the landowner.

Subsection (4) clarifies that the making of the regulation does not mean that the Coordinator-General must commence the taking of land process. This provides for not acquiring land despite it being named in the regulation, for example, in circumstances where a landowner agrees to a voluntary purchase of the land before the acquisition process commences or completes.

Subdivision 2 Coordinator-General's endorsement

Section 144 Application for endorsement

Section 144 provides what an application to the Coordinator-General must include. The section includes a power to waive all or part of the application fee, for example to account for circumstances where the Coordinator-General is reasonably satisfied that the fee to be paid is in excess of the value of the effort that will be required to evaluate the application.

Section 145 Additional information and consultation about application for endorsement

Section 145 provides an opportunity for the Coordinator-General to seek additional information as part of the application by a proponent. The Coordinator-General must provide a reasonable period for the proponent to supply the additional information, which must be at least 28 days but may be a longer period. The section provides that the Coordinator-General must consult with the registered owner about the negotiations with the proponent prior to deciding the application, and may consult with any other person the Coordinator-General considers may be affected by the decision on the application.

Section 146 Deciding application for endorsement

Section 146 provides the matters the Coordinator-General must be satisfied with to provide their endorsement or refusal of the application. Notably, this includes that the proponent has negotiated for at least 6 months with each registered owner of the land and has taken reasonable steps to purchase the land, and if native title exists, the proponent has taken reasonable steps to enter into an indigenous land use agreement. The purpose of these criteria is to ensure that a reasonable and legitimate attempt at commercial negotiations has been made and not succeeded, prior to commencing the acquisition pathway.

Subdivision 3 Amendment or repeal of declaration

Section 147 Amendment of declaration

Section 147 provides the process for amendment or repeal of a regulation, which includes consulting with persons affected by the proposal. Amendments that are not considered minor require the proponent's agreement or be initiated by the proponent. The requirements for making the amendment broadly reflect the requirements to be met for making the original declaration.

Section 148 Application by proponent for amendment of declaration

Section 148 provides what an application for amendment by the proponent must include. In common with section 144, the Coordinator-General may waive all or part of this fee.

Section 149 Notice of proposed amendment to identify new land in declaration

Subject to whether the Minster or Coordinator-General is proposing an amendment to a declaration to identify new land, section 149 provides that the Minister or Coordinator-General must give the proponent a written notice of the proposed amendment being recommended or requested. The proponent will need to comply with the requirement to make a final unconditional offer to the owner of the new land prior to the regulation being amended.

Section 150 Repeal of declaration

Section 150 provides the circumstances in which a declaration may be repealed.

Section 151 Consultation requirement for amendment or repeal of declaration

Section 151 provides that consultation must occur with the proponent and the registered owner of land identified in the declaration, and for any amendment, the registered owner of any new land to be identified in the declaration as amended; as well as any other person the entity considers may be affected by the recommendation or request.

Subdivision 4 Final negotiations with owner of land

Section 152 Requirement for final negotiation with owner of land

Section 152 provides that following the Coordinator-General's endorsement, the proponent must negotiate one final time with the registered owner. This section also applies where the Minister or Coordinator-General has given notice to the proponent about a proposed amendment of a declaration to identify new land in the declaration.

Section 153 Final unconditional offer

Section 153 provides details for the form and making of final offer.

Subdivision 5 Miscellaneous

Section 153AA Recovering cost of advice or services

Section 153AA provides the Coordinator-General with the ability to recover the reasonable costs incurred from obtaining advice or services necessary to decide an application or an amendment application by the proponent.

Clause 40 Amendment of s 153A (Definitions for div 8)

Clause 40 amends section 153A to reflect the change of term from the former critical infrastructure easement to the new *strategic infrastructure easement*.

Clause 41 Amendment of s 153B (Registration of critical infrastructure easement)

Clause 41 amends section 153B to provide that strategic infrastructure easements may be for a purpose other than to provide a public utility service, but only where Governor in Council approval is provided for the registration of the easement. This is to enable strategic infrastructure easements to be registered, transferred to and held by persons who are not public utility service providers.

The intention of these changes is to allow placement of project infrastructure for any type of State strategic project within the area subject of an existing public utility easement, allowing co-existence with an existing public utility. This will enable State strategic projects to obtain easements over land through utilising existing capacity within existing public utility easements, as a means of mitigating impact to landowners and to enabling the timely delivery of projects.

It is not anticipated that a strategic infrastructure easement would accommodate the balance of a project, unless that project were entirely or primarily an infrastructure project of the type ordinarily contained within an easement. Rather, the creation of a strategic infrastructure easement is a tool for facilitating infrastructure required by or associated with the larger State strategic project. Given the typical format and purposes of public utility easements in Queensland, the type of non-public utility infrastructure that could benefit from these reforms would be anticipated to be a linear type that could coexist with public utility infrastructure.

Strategic infrastructure easements can only be placed over public utility easements where the strategic infrastructure easement could ordinarily be created as a public utility easement in its own right. As strategic infrastructure easements are easements for the *Land Act 1994* and *Land Title Act 1994*, requirements that ordinarily apply for registering an easement apply to a strategic infrastructure easement (except as otherwise specifically provided for by the SDPWO Act). Therefore, if an Act provides for creating of easements only under specific conditions, those conditions apply to the creating of strategic infrastructure easements. For example, the strategic infrastructure easement provisions do not prevail over section 26(1A) of the *Forestry Act 1959*, or section 39 of the *Nature Conservation Act 1992* that effectively precludes the registration of easements over protected areas.

All strategic infrastructure easements are first registered in the Coordinator-General's name and subsequently transferred subject to later Ministerial or Governor in Council approval (depending on whether the easement is for land to which subsection (2) applies). Where the strategic infrastructure easement is for a public utility service, Ministerial approval continues to apply for the registration of the easement. Strategic infrastructure easements for public utility services will continue to operate within the mechanism unaffected by these amendments.

Clause 42 Amendment of s 153D (Effect of registration of easement)

Clause 42 amends section 153D to update the term critical infrastructure easement to strategic infrastructure easement.

Clause 43 Amendment of s 153E (Transfer of easement)

Clause 43 amends section 153E to expand the entities to whom a strategic infrastructure easement may be transferred. The new provisions provide that where the easement is for a purpose other than a public utility purpose, the Minister may approve its transfer from the Coordinator-General to a person approved by Governor in Council as a person suitable to provide infrastructure in relation to the strategic infrastructure easement.

The intention of seeking Governor in Council approval is to ensure government consensus regarding the entity (for example, private proponent) the easement is proposed to be transferred to.

Where a strategic infrastructure easement is for a public utility service, it may continue to be transferred from the Coordinator-General to another public utility provider, or a person approved by the Minister as suitable to provide a public utility service.

Clause 44 Insertion of new s 153EA

Clause 44 inserts a new section establishing rules for holding and transferring of strategic infrastructure easements held by someone who is not a public utility provider or approved to provide a public utility service.

Section 153EA Effect of transfer of particular easements

Giving effect to the policy intent of allowing non-public utility providers to hold strategic infrastructure easements requires modification of the effects of the *Land Act 1994* and *Land Title Act 1994* for these particular easements. Where transfer of a strategic infrastructure easement other than for a public utility service is approved by the Governor in Council and undertaken, subsection (2) provides that:

- it is not necessary that the easement be attached to, or used or enjoyed with, other land;
- the lessee of the land burdened by the easement may recover a reasonable contribution towards the cost of upkeeping the affected part of the land from the easement holder;
- if the easement is over –
    - land granted in trust, a lease or licence that is ended;
    - a reserve the dedication of which is revoked;
    - a sublease that ends;
    - a lot that is surrendered to the State; or
    - unallocated land dealt with under the *Land Act 1994* –

  – the easement may be continued with the approval of the Minister(s) administering the *Land Act 1994* and *Land Title Act 1994.*

The intent of this subsection is to ensure that the easement for the purpose other than a public utility service only benefits from being considered a public utility easement to the extent appropriate.

Additionally, subsection (3) inverts the ordinary logic for strategic infrastructure easements in relation to the underlying public utility provider. For these particular easements, the public utility provider's rights in their easement will prevail over the rights of the non-public utility provider in the strategic infrastructure easement, to the extent of any inconsistency, unless consent is first obtained.

Clause 45 Insertion of new s 153IA

Clause 45 inserts new section 153IA to provide a specific process for the surrender of certain strategic infrastructure easements.

Section 153IA Surrender of particular easements

This section allows for the transfer of particular easements where they are for a purpose other than a public utility service and have been transferred from the Coordinator-General to another entity, such as a private proponent.

Subsection (2) provides that where such a person wishes to surrender the easement (wholly or partly), the consent of the Coordinator-General to the surrender is required. That person will then be required to sign the surrender in the same way section 371 of the *Land Act 1994* and section 90 of the *Land Title Act 1994* operate for public utility providers.

The intention is that someone other than a public utility provider cannot surrender the easement without the Coordinator-General being satisfied that the easement is left in a condition that is acceptable for surrender. This enables the Coordinator-General to retain oversight of the surrender of these particular easements to ensure the existing public utility holder and landowner are not adversely affected by the surrender.

Subsection (3) provides that for the purposes of applying the surrender provisions under the *Land Act 1994* or the *Land Title Act 1994,* the easement holder is taken to be a public utility provider. This clarification ensures that the relevant statutory processes apply consistently to the surrender of strategic infrastructure easements.

Clause 46 Insertion of new pt 6A

Clause 46 inserts new part 6A to establish a standalone framework for access authorities for particular projects. The intent of the new part is to enable proponents of prescribed projects to obtain access to land, to undertake investigations needed to progress project development and for proponents of State strategic projects to access land to undertake enabling works on the land.

The new part sets out the purpose of the framework, relevant definitions, the process for applying for and granting an access authority, and the obligations that apply when exercising powers under an authority. It also includes provisions dealing with rectification of damage, compensation and cost recovery, providing an appropriate balance between enabling early project investigations, allowing for undertaking of enabling works for the project, and safeguarding the interests of landowners. These protections largely reflect the former investigator's authority regime.

Part 6A Access authorities

Division 1 Preliminary

Section 153K Purpose of part

The purpose of the part is to:

- allow a proponent of a prescribed project to enter land to investigate its suitability for, or potential impact on, the development of the project; or
- allow a proponent of a State strategic project to enter land to carry out enabling works on the land; and
- in all instances, safeguard the interests of the landowner.

Section 153L Definitions for part

Section 153L inserts definitions for the part.

Division 2 Grant of access authority

Section 153M Application for authority

This section sets out the circumstances in which a proponent may apply for an access authority via section 76HA or section 76HB and prescribes the information that must accompany the application.

Subsection (2) specifies the information that must be included in an application, including the land intended to be entered, the purpose and duration of the proposed authority, the activities proposed to be carried out, and the prescribed fee. The Coordinator-General will not be required to take steps to consider the application or consult with the relevant landowner unless the application is properly made, including payment of the prescribed fee.

Subsection (3) lists the supporting information the proponent must give the Coordinator-General, including details of the project, the applicant's financial and technical capability to undertake the project, and the required information about steps the applicant has taken to negotiate carrying out activities on the land. This provision is intended to ensure that the Coordinator-General is provided adequate information to evaluate the need for the access authority.

Subsection (4) provides that the Coordinator-General may waive all or part of the application fee.

Section 153N Additional information about application for authority

Section 153N establishes the Coordinator-General's obligations when an application is made, including advising of the application and consulting with the owner of the land subject of the application and inviting submissions about the proposed entry. This consultation may be used to test an applicant's statements about reasonable efforts to negotiate access.

The section also enables the Coordinator-General to request additional information needed to consider the application, and to refuse the application if that request is not complied with without reasonable excuse.

Section 153O Deciding application for authority

This section allows the Coordinator-General to grant an access authority (with or without conditions) or refuse the application. The authority may only be given for the part of the land the Coordinator-General is satisfied is reasonably necessary with respect to the purpose for which the authority is sought, to ensure that such access is appropriate and proportionate. An access authority that authorises enabling works may only be granted if approved by the Governor in Council.

The conditions of an authority may deal with practical matters, such as requiring compliance with site-specific biosecurity requirements. Conditions can also require the applicant to lodge a bond or security deposit with the Coordinator-General, which is dealt with further by section 153X. If the application is refused, written reasons for the refusal must be provided to the applicant.

Section 153P Activities that may be authorised and land to which authority may apply

The provision provides guidance on what can be done on the land, subject to the contents of each particular authority. Subsection (2) provides examples of those activities.

Where the authority provides for things that can be done on the land, this is only to the extent that the consent of the owner is not required to do these things. The provisions of other Acts that require a person to hold an approval, licence, permit or similar requirement to do the authorised thing(s), or that prohibit certain activities, are not affected by the access authority and continue to apply, as reflected at section 153S.

Section 153Q Governor in Council approval of enabling works for State strategic projects

Section 153Q provides what the Governor in Council is to be satisfied with in order to approve the carrying out of enabling works for a State strategic project. This includes that the works will not interfere with the owner's use of the land to an unreasonable extent.

Division 4 applies to an access authority which provides for enabling works, which includes a right to rectification and compensation for the owner.

Section 153R Form of authority

Section 153R provides for the required form of the authority. The authority is to include for example, whether it is for investigating or carrying out enabling works and is to include the details of the activities authorised. It is also to include the period for which the authority applies. It is intended that when an authority expires, any enabling works would be removed and the land rectified to its former condition.

Division 3 Exercise of powers under access authority

Section 153S Entry to land and other activities authorised under authority

Pursuant to this section, an authority holder or an associated person may enter and re-enter the land and do things reasonably necessary for investigating the land's suitability or carrying out enabling works. This is subject to compliance with the entry procedure in section 153T.

Section 153S provides that where an activity requires an approval, an access authority does not authorise the carrying out of the activity under the authority unless the activity is also authorised under a relevant approval.

Section 153T Procedure for entering land under authority

This section sets out the procedure prior to the first entry to land under an access authority.

Section 153U Compliance with conditions of authority

Section 153U makes failure to comply with the conditions of an access authority an offence. The penalty for this offence is the same as the penalty for the former offence of noncompliance with the conditions of an investigator's authority.

Section 153V Identification for associated person

To ensure that persons accessing land under an authority are appropriately identifiable to the owner, this section requires a person entering land under an access authority to be issued with identification that complies with subsection (2). The person must return their identification if they become no longer associated with the authority holder, to mitigate against misuse of identification to gain entry (noting that doing so is an offence as per section 153ZA).

Section 153W Production of authority or identification

Section 153W requires that the access authority identification issued pursuant to section 153V must be produced on request of the land's owner if the holder of the identification or access authority has entered, or is about to enter, the land.

Division 4 Other provisions

Section 153X Rectification of damage by holder of authority

Section 153X allows the owner of the land to give written notice, requiring the proponent to rectify loss or damage arising from entry or activities under the authority.

Subsection (2) provides that a notice in relation to damage can be made during the period of authority, up to 3 months after the access authority expires, or a later time allowed by the Land Court. The 3-month timeframe reflects a reasonable period during which damage or loss can be identified and reasonably attributed to the actions of the authority holder. However, a longer period is allowable, and elapsing of the period does not preclude making a claim for compensation under section 153Y.

Section 153Y Compensation payable by holder of authority

Section 153Y requires the proponent to compensate the owner of the land for any loss or damage not rectified, with the benefit of subsection (4). Subsection (2) provides that the amount of compensation is either agreed between the parties or determined by the Land Court. Under subsection (3), claims for compensation must be made before or within 1 year of the expiry of the authority, unless otherwise allowed by the Land Court.

Section 153Z Release of bond or security deposit

To protect and provide for compensation for owners as far as possible, section 153Z sets out the circumstances in which the Coordinator-General may retain, use or release a bond or security deposit lodged as a condition of an access authority. The Coordinator-General may use the bond or deposit to rectify damage or pay compensation where required. If not required, the Coordinator-General must return the bond within 1 year after the access authority expires.

Section 153ZA Pretending to be holder of authority or associated person

Section 153ZA provides that a person must not pretend to be the holder of an access authority or an associated person of the holder. Penalties apply for noncompliance. The penalty for this offence is the same as the penalty for the former offence of noncompliance related to an investigator's authority.

Section 153ZB Recovering cost of advice or services

Section 153ZB allows the Coordinator-General to recover from the proponent as a debt the reasonable costs of obtaining advice or services necessary to decide an application for an access authority or to decide a matter in relation to a bond or security deposit.

Clause 47 Insertion of new pt 7A, divs 1AA–1AE

Clause 47 inserts new divisions 1AA to 1AE to part 7A which provides a framework for entry and investigation of premises on which the Coordinator-General or their officers suspect offences have been committed. The provisions have been modelled on provisions under the Planning Act, chapter 5, parts 6-9.

Division 1AA Preliminary

Section 157AA Other definitions for part

Section 157AA provides definitions applicable to part 7A.

Division 1AB Authorised officers

Division 1AB provides for the appointment of authorised officers to undertake enforcement and related actions under part 7A.

Section 157AB Appointment

Section 157AB provides for the appointment of an authorised officer. Subsection (1) provides that such appointment is to be by instrument in writing and that the authorised officer may be employee or officer of a public sector entity who is appropriately qualified. Subsection (2) provides that limits may be placed on an authorised officer's powers, through the instrument of appointment, a notice given by the Coordinator-General, or a regulation.

Section 157AC When appointment ends

Section 157AC provides for the ending of appointment of an authorised officer. Subsection (1) provides the circumstances for when an appointment ends, including the term of office stated in a condition of office ends, under another condition of office, the office ends, or the officer resigns. Subsection (2) provides that the section does not limit the ways the appointment of an authorised officer may end.

Section 157AD Identity card

Section 157AD requires that the Coordinator-General must provide each authorised officer with an identity card. Subsection (1) outlines what the identity card must contain, however the identity card must not contain other *personal information*, defined in subsection (5) to be as per the *Information Privacy Act 2009*, to protect the privacy of the authorised officer. Subsection (2) provides that an identity card may be the same card which is issued to the person as part of their employment.

Subsections (3) and (4) provide the circumstances when an identity card must be returned, with a maximum penalty of 10 penalty units for failure to return the identity card.

Section 157AE Production of identification documents

Section 157AE provides that an authorised officer must produce their *identification documents* (as defined under section 157AA) in exercising a power to another person. The intent of the section is to ensure a person to whom a power is being exercised, can readily identify an authorised officer and confirm their identity in a timely manner.

Subsection (3) identifies the circumstances where an authorised officer, in entering a place, has not exercised a power.

Division 1AC Entry of places by authorised officers

Subdivision 1 Preliminary

Section 157AF General power to enter

Section 157AF establishes the general circumstances in which an authorised officer may enter a place for the purposes of administering and enforcing the Act, including by consent, under a warrant, or when the place is open to the public or used for business purposes.

Subdivision 2 Entry with consent

Section 157AG Procedure for obtaining consent

Section 157AG sets out the procedural safeguards that apply when an authorised officer seeks consent from an occupier to enter a place, including requirements to explain the purpose of entry and the occupier's rights.

Section 157AH Consent acknowledgement

Section 157AH provides for the recording of consent to entry and establishes evidentiary requirements to support reliance on consent where entry to a place is later challenged.

Subdivision 3 Entry under warrant

Section 157AI Application for warrant

Section 157AI enables an authorised officer to apply to a magistrate for a warrant for a place. The authorised officer must prepare a written application that states the grounds on which the warrant is sought. The written application must be sworn, and the magistrate may refuse to consider the application until the authorised officers gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Section157AJ Issue of warrant

Section 157AJ provides for the issue of a warrant by a magistrate where criteria are satisfied, including that there are reasonable grounds to suspect evidence of an offence may be found at the place. The section also provides the details the warrant must state, including the day, within 14 days after the warrant's issue, the warrant ends.

Section 157AK Electronic application

New section 157AK allows applications for warrants to be made using electronic means in urgent or special circumstances, ensuring investigative powers can be exercised effectively when required.

Section 157AL Additional procedure if electronic application

New section 157AL sets out additional procedural requirements that apply where a warrant is issued following an electronic application, including the handling of original and duplicate warrants.

Section 157AM Defect in relation to a warrant

New section 157AM provides for handling of defects in relation to a warrant issued. This section provides that a warrant is not invalid merely because of a technical defect, unless the defect affects the substance of the warrant in a material way.

Section 157AN Procedure for entry under warrant

Section 157AN prescribes the steps an authorised officer must take when entering a place under a warrant, including identification requirements and obligations to provide information to occupiers. The section provides that the authorised officer need not undertake these actions if the inspector reasonably believes that entry to the place without compliance is required to ensure the execution of the warrant is not frustrated.

Division 1AD Powers after entering place

Subdivision 1 General powers for places entered with consent or under a warrant

Section 157AO Application of subdivision

Section 157AO provides that subdivision 1 applies where an authorised officer enters under section 157AF(1)(a) by consent or (c) by warrant, and that the powers are subject to any conditions of consent or terms of warrant that pertain to the entry.

Section 157AP General powers

Section 157AP outlines the general investigative powers available to an authorised officer after entering a place, including inspection, examination, sampling and copying of documents.

Section 157AQ Requiring reasonable help

Section 157AQ permits an authorised officer to require an occupier of a place or a person at the place to give reasonable help to an authorised officer for example, to produce a document or to give information. When making the help requirement, the enforcement officer must inform the person that it is an offence not to comply with a help requirement without a reasonable excuse. It is a reasonable excuse for an individual not to comply with a help

requirement if complying might tend to incriminate the individual or expose the individual to a penalty. The maximum penalty of 40 penalty units for a failure of a person to comply with a help requirement without a reasonable excuse is consistent with a similar offence under the Planning Act.

Subdivision 2 Power to seize

Section 157AR Seizing evidence at a place that may be entered without consent or warrant

Section 157AR authorises the seizure of evidentiary material at place that may be entered without consent or warrant, where an authorised officer reasonably believes the thing is evidence of an offence.

Section 157AS Seizing evidence at a place that may be entered only with consent or warrant

Section 157AS governs seizure powers for places entered by consent or under warrant and limits seizure to circumstances consistent with the scope and purpose of the authorised entry.

Section 157AT Seizure of property subject to security

Section 157AT provides that the seizure of a thing and related powers, is not affected by a lien or other security over the thing. The section also provides that the seizure does not affect the lien or security.

Section 157AU Securing seized thing

Section 157AU allows an authorised officer to secure seized property, either by removing it or restricting access. The section includes penalties for accessing or tampering with a seized thing, and creates offences for non-compliance with securing measures.

Subdivision 3 Safeguards for seized things

Section 157AV Receipt and decision notice for seized thing

Section 157AV requires authorised officers to provide receipts and decision notices following seizure, subject to limited exceptions, to ensure transparency and accountability.

Section 157AW Access to seized thing

Section 157AW preserves limited rights for owners to inspect or copy seized items where it is reasonable and practicable to do so.

Section 157AX Returning seized thing

Section 157AX establishes when and how seized property must be returned, including rights for owners to request return if continued retention is no longer justified.

Division 1AE Forfeiture and disposal

Section 157AY Forfeiture of seized thing by Coordinator-General decision

Section 157AY sets out the circumstances under which an authorised officer may decide a seized thing is forfeited to the State, and the matters that the authorised officer must consider in reaching the decision. The clause also sets out the procedures for notifying the owner of the forfeiture.

Section 157AZ Dealing with things forfeited or transferred to State

Section 157AZ sets out the ways the Coordinator-General may deal with a thing forfeited or transferred to the State, including by destroying, giving away or selling the thing. If the Coordinator-General sells the thing, reasonable efforts must be made to return the proceeds of the sale to the owner, less any costs of the sale.

Section 157AZA Disposal order

Section 157AZA sets out the powers of a court to make a disposal order about a seized thing or other thing the court is satisfied was used to commit and offence or may be used to commit a further offence, and the procedures the court may, or must undertake before making the order.

Clause 48 Amendment and relocation of s 157A (What is an enforceable condition)

Clause 48 amends section 157A to achieve various objectives and repositions it within part 7A.

Reference to conditions imposed under reformed sections of part 5 are omitted. Now that conditions for relevant planning applications will take effect as development conditions under the Planning Act, such references are not necessary.

Amendments to subsection (1) cause a condition stated in a modification order by way of section 76RH is classified as an enforceable condition. This enables the enforcement provisions under part 7A to apply.

This clause also amends section 157A(1)(g) to include reference to SDA self-assessable development which is either identified in an SDA development scheme or under a declaration made for SDA-related development. This enables the enforcement provisions under part 7A to apply to SDA self-assessable development that is SDA-related development.

Clause 49 Amendment of s 157B (Power to give enforcement notice)

Clause 49 amends section 157B(1) to include reference to section 84A. This enables the enforcement provisions under Part 7A to apply to an offence under section 84A (carrying out SDA assessable development without an SDA approval). Consequential changes are also made to subsection (2) to appropriately reflect the expanded power.

Clause 50 Amendment of s 157C (Requirements for enforcement notice)

Clause 50 amends section 157C to refer to either a contravention of section 84A or an enforceable condition in relation to the content of an enforcement notice. A further consequential change is made to section 157C(1)(b)(iii) to refer to the section or condition.

Clause 51 Insertion of new s 157HA

Clause 51 inserts new section 157HA.

Section 157HA Powers to remedy contravention of enforcement notice

This section permits an authorised officer to enter a place and take the action required under an enforcement notice where a person has failed to comply with that notice. The section also provides for notice requirements before entry and enables the Coordinator-General to recover the reasonable costs incurred in taking the action as a debt from the person who failed to comply. The section also defines a relevant place in relation to the enforcement notice.

Clause 52 Amendment of s 157I (Starting proceedings for enforcement order)

Clause 52 amends section 157I(1) to clarify that the Coordinator-General may start proceedings in a court for an enforcement order if a person has contravened section 84A, in addition to an enforceable condition.

Subsection (2) is also amended to ensure the subsection applies to proceedings started in relation to contraventions of section 84A as well as enforceable conditions.

Clause 53 Amendment of s 157K (Making enforcement order)

Clause 53 amends section 157K(1) to provide that a court may make an enforcement order requiring a person to stop committing, remedy or prevent a contravention of section 84A, as well as an enforceable condition.

Clause 54 Amendment of s 157L (Effect of enforcement order)

Clause 54 amends section 157L to ensure the effect of an enforcement order applies to enforcement orders made in relation to contraventions of section 84A, in addition to enforceable conditions.

Clause 55 Insertion of new pt 7A, div 2A

Clause 55 inserts new division 2A into part 7A, in relation to authorised officers.

Division 2A Miscellaneous provisions relating to authorised officers

Division 2A provides for miscellaneous provision relating to authorised officers in undertaking their duties under Part 7A of the SDPWO Act. The provisions have been modelled and are consistent where possible with other Queensland jurisdictions, including under the Planning Act.

Section 157NA Duty to avoid inconvenience and minimise damage

Section 157NA imposes a general obligation on authorised officers to minimise inconvenience and damage when exercising powers under Part 7A.

Section 157NB Notice of damage

Section 157 NB requires written notice to be given where damage occurs during the exercise of authorised officer powers, subject to investigation-related exceptions.

Section 157NC Compensation

Section 157NC provides a statutory framework for claiming compensation for loss suffered as a result of the exercise or purported exercise of authorised officer powers.

Section 157ND False or misleading information

Section 157ND creates an offence for knowingly providing false or misleading information to an authorised officer in the administration of the Act.

The maximum penalty of 1,665 penalty units is significant, however considered appropriate in the circumstances. Deliberately giving false or misleading information to an authorised officer has the potential to frustrate or halt an investigation into an alleged offence, which could result in harm to people or the environment as a result of the alleged offence. The maximum penalty is consistent with an existing offence under the SDPWO Act for giving the Coordinator-General a false or misleading document under section 157O.

Section 157NE Obstructing authorised officer

Section 157NE makes it an offence to obstruct an authorised officer or a person assisting them in the lawful exercise of enforcement powers.

The intent of this offence is to ensures investigations into alleged offences can occur in a timely, safe and civil manner. The section includes protections, including that the person can have a reasonable excuse for obstructing, and that the authorised officer must warn a person that they consider their actions to be obstructing. This allows the person to take corrective action or otherwise explain their actions. The maximum penalty of 60 penalty units is consistent with a similar offence under the Planning Act.

Section 157NF Impersonating authorised officer

Section 157NF creates an offence for impersonating an authorised officer. The offence protects the integrity of enforcement activities under the SDPWO Act and also protects persons whose rights may be impacted as a result of an impersonator entering premises or otherwise engaging in fraudulent behaviour. The maximum penalty of 60 penalty units is consistent with a similar offence under the Planning Act.

Clause 56 Amendment of s 158 (Power to contract)

Clause 56 amends section 158 to clarify that the Coordinator-General may negotiate and enter into contracts for recovery of costs incurred by the Coordinator-General in their performance of functions or exercise of powers, under the SDPWO Act or another Act. This includes a wide range of functions beyond those for which standard fees are prescribed, as well as allowing for alternative voluntary costs-recovery pathways where a proponent seeks a range of services from the Coordinator-General or anticipates a deviation from a standard level of service for a particular function.

The provision also allows for recovering of costs by the Coordinator-General on the behalf of a person cooperating with the Coordinator-General, which can then be remitted back to that person. A ‘cooperating person’ is one who is required to cooperate with the Coordinator-General pursuant to section 13 of the SDPWO Act.

In accordance with Queensland government policy, agencies providing services should seek to only recover costs actually incurred. The amendment ensures this by including new subsections (1A) and (1B) (renumbered as subsections (2) and (3) by subclause (2)), which provides that the Coordinator-General can only recover costs under contract where those costs have not otherwise been recovered from the party to whom the service is provided.

Clause 57 Insertion of new pt 9, div 11

Division 11 Transitional provisions for State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Act 2026

Clause 57 inserts new division 11 into part 9 of the SDPWO Act to provide transitional provisions for the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Act 2026.

Subdivision 1 Preliminary

Section 209 Definitions for division

This section establishes definitions that aid in the operation of transitional provisions, including by identifying the amending Act and the former Act, being the provisions in force prior to the amendments taking effect.

The section also establishes a definition of *relevant declaration*, to manage the transition between projects declared critical infrastructure projects under the former provisions and their status as State strategic projects following commencement, as well as with projects declared prescribed projects prior to commencement.

Subdivision 2 Provision about coordinated projects

Section 210 Particular existing coordinated projects

This section applies to a coordinated project which is actively undergoing the evaluation process under part 4, division 3 or the change process under part 4, division 3A at the time of commencement, where that project involves either an activity for which a regional interests development approval would be required under the RPI Act, or an approval or decision under the TI Act of the type mentioned in new section 49N(b)(i)-(iv).

The section effectively allows for the new provisions relating to regional interests development applications or approvals and decisions under the TI Act to apply to such a project, even where it has already made some progress under part 4. This includes that conditions for such an approval or decision may be stated in the Coordinator-General's report for the project, and that the modified application process set out under part 4, division 6D will have effect for the project where it involves an application for a regional interests development approval.

Whether the Coordinator-General will in fact make a directions about and/or state conditions for such an approval or decision will depend on whether sufficient information is included in a project's assessment materials about the activity's impacts on the relevant matters.

Subdivision 3 Provisions about prescribed projects

Section 211 State strategic projects

The purpose of this transitional provision is to continue any critical infrastructure declaration in force immediately prior to the amendments taking effect. From commencement, the project is taken to be a State strategic project, and the declaration has effect as if it had been declared under the new section 76EB (rather than the former section 76E(4)).

This provision also allows for a preexisting prescribed project to later be declared a State strategic project in accordance with new section 76EB.

Section 212 Notice to decide

Section 212 allows the clarified effect of a notice to decide to apply if issued for a prescribed project that was declared prior to commencement of the amended section 76J.

Section 213 Step in notice

This section has two functions. The first, contained to subsection (1) and (2), preserves a step in notice that is in force at the time that the amended section 76L commences, allowing it to continue as if the amending Act had not been enacted.

The second limb, via subsection (3), allows the amended process for giving a step in notice to apply for any prescribed project with a current declaration, regardless of the timing of its declaration relative to commencement of the amendments.

Section 214 State significance notice

The purpose of this section is to allow for the making of State significance notices for State strategic projects declared prior to commencement of the amendments (i.e. a critical infrastructure project that section 211 causes to be transitioned to State strategic project).

Section 215 Modification order

The purpose of this section is to allow for the making of modification orders for State strategic projects declared prior to commencement of the amendments (i.e. critical infrastructure project that section 211 causes to be transitioned to a State strategic project).

Section 216 Access to land by proponent

Section 216 provides for application of the new access authority regime to prescribed projects declared prior to the commencement of the amendments.

Section 217 Enabling works by proponent

Section 217 provides for application of the new enabling works regime to State strategic projects declared prior to the commencement of the amendments.

Subdivision 4 Provisions about State development areas

Section 218 Waiver of fees for SDA applications

Section 218 validates SDA applications, and any SDA approval issued in respect of such SDA application decided before commencement, where the Coordinator-General waived all or part of the application fee. The section ensures those SDA applications and SDA approvals are taken to be valid.

Section 219 Imposing conditions on SDA approvals

Section 219 provides that a condition about infrastructure charges or environmental offsets may be imposed on SDA approvals given after commencement, regardless of when the SDA application was made. Sections 84EA and 84EB are reliant on the existing section 84E

conditioning power to have effect. The Coordinator-General may already condition SDA approvals with respect to infrastructure charging and environmental offset issues, where that condition is relevant to and not an unreasonable imposition to the development, or is reasonably required in relation to the development. In the context of SDA applications made before commencement, an imposition of a condition on an SDA approval under section 84EA or 84EB is not a new power, but rather a clarification of how the existing section 84E may operate when dealing with infrastructure and offset matters.

Section 219 also permits a condition about infrastructure charges or environmental offsets to be imposed on an SDA approval issued before commencement, where the condition is imposed as a result of a decision on a change application regardless of when the change application was made. The consideration of a change to an SDA approval does not necessarily permit a reassessment of the existing approval, but rather is an assessment of the change applied for in the context of the broader approved development. Any conditions that could then be applied to a changed SDA approval must be related to the change. For example, a condition requiring an environmental offset for an extension to an approved use could be applied where that offset relates to the additional impact caused by the change.

Section 220 Lapsing of SDA approvals

Section 220 provides for the application of the amended lapsing provisions for SDA approvals to SDA approvals in effect at commencement. The section permits an extension to a currency period for an SDA approval issued prior to commencement, to be made under the new provisions. As such, applicants will benefit from the new provisions that ensure SDA approvals do not lapse whilst an extension request is being considered.

However, the updated wording of when a material change of use lapses, and the default currency period for a material change of use does not apply to SDA approvals issued prior commencement, to give certainty to those approvals.

The section also provides for the continued consideration of requests made before commencement to extend the currency period of an approval, allowing those requests to be decided under the amended provisions.

Section 221 Existing prior affected development

Section 221 provides that where a request relating to prior affected development has been made but not decided before commencement, the request continues to be assessed under the former provisions. This ensures requests under consideration at commencement are not considered invalid as a result of the new two-year timeframe introduced in section 85.

Subdivision 5 Provisions about infrastructure facilities

Section 222 Existing applications relating to private infrastructure facilities

If an application for an investigator's authority or a private infrastructure facility has been made but not decided prior to commencement of the amendments, this section provides on commencement, the application is taken to be withdrawn. It also provides that the Coordinator-General must refund any fees paid in relation to the application.

Section 223 Existing investigator's authorities

This section applies to current investigator's authorities (that is, granted and not expired) that are in effect on commencement of the amendments. Such authorities will continue to be bound by the former investigator's authority regime as per pre-amendment part 6, division 7, subdivision 1, including the former notice, identification, rectification and compensation provisions.

Section 224 Existing approvals of private infrastructure facilities

This section provides that a private infrastructure facility previously approved by Governor in Council lapses on the commencement of the amendments.

Section 225 Rectification of damage or payment of compensation

The purpose of this section is to preserve owner's rights to rectification or compensation arising from an investigator's authority that has expired where the owner's rights to seek such rectification or compensation were still enlivened at the time of the commencement of the amendments. In such a circumstance, the owner may request rectification or make a claim for compensation in accordance with the former provisions of the Act.

Section 226 Release of bond or security deposit

This section applies where, at the time of commencement of the amendments, the Coordinator-General is holding a bond or security deposit in relation to an investigator's authority that has expired. In that instance, the Coordinator-General may apply or relinquish the bond or security deposit as provided for by the former section 153, including if rectification or compensation is requested by the owner pursuant to the transitional provision at section 225.

Section 227 Proceedings for particular offences

The purpose of this section is to provide for continuance of proceedings commenced in respect of offences committed in respect of an investigator's authority prior to the commencement of the amendments.

Subdivision 6 Provisions about enforcement notices and enforcement orders

Section 228 Enforcement notices and enforcement orders

This section provides that enforcement notices and enforcement orders in relation to a contravention of section 84A (Carrying out SDA assessable development without SDA approval) apply only to acts or omissions occurring after commencement.

Section 229 Powers to remedy contravention of enforcement notice

This section provides for the application of new powers to remedy a failure to comply with an enforcement notice only applies to enforcement notices issued after commencement.

Clause 58 Amendment of sch 2 (Dictionary)

Clause 58 amends schedule 2 of the SDPWO Act, dealing with definitions.

Subclause (1) omits several previously established definitions. The terms *application*, *approved plan*, *critical infrastructure easement*, *critical infrastructure project*, *infrastructure*

facility, *prescribed development*, *private infrastructure facility*, *private infrastructure facility application* have been omitted as they are no longer required owing to reforms to the provisions previously relying on them.

The first occurrence of the term *registered owner* is also removed as its connection to section 76D has been severed by omission of the definition of that term in that section. The second occurrence of *registered owner* has been amended to apply to the entire Act (rather than just part 6, division 7). This flows from the removal of private infrastructure facilities, which required a separate definition of the term to function.

The remainder of the omitted definitions are replaced with new definitions for the same terms by subclause (2).

The majority of new definitions inserted by subclause (2) refer to a definition established in another part or by another Act, or improve precision by making express reference to a section of the SDPWO Act. Key exceptions are:

- *alternative lawful development*: this definition is updated to be consistent with modern drafting language and planning concepts established by the Planning Act.
- *enabling works*: being ancillary works necessary to enable a State strategic project or part of such a project to be carried out – i.e. not the substantive project in of itself.
- *proponent*: this definition is amended to improve clarity and ensure the effective operation of the definition across the SDPWO Act. The definition now encompasses a meaning of the proponent at multiple stages of a project lifecycle, including the person proposing the project at the time the project is proposed (which was captured in the previous definition of the term), as well as the person responsible for the project whilst it is being undertaken, and the person owning or otherwise responsible for the project following a project's completion.

Subclause (3) relates to clause 3 inserting new section 24A, which improves definitional clarity around projects and coordinated projects for part 4.

Subclauses (4) through (10) make minor insertions or omissions to reflect other amendments made by part 2 of the Bill.

Part 3 Amendment of State Development and Public Works Organisation Regulation 2020

Clause 59 Regulation amended

Part 3 of the Bill amends the State Development and Public Works Organisation Regulation 2020 (SDPWO Regulation). The focus of these amendments is to prescribe fees that reflect amendments to part 6 and insertion of new part 6A of the SDPWO Act which discontinue the former private infrastructure facility and investigator's authority mechanisms and insert the acquisition framework for State strategic projects and the new access authority regime.

Clause 60 Amendment of s 29 (Fees)

Clause 60 amends section 29 of the SDPWO Regulation to include a new subsection within section 29, providing that fees payable under new part 6A of the SDPWO Act (i.e. for access authorities) are set out in schedule 7.

Clause 61 Replacement of schs 6 and 7

Clause 61 updates schedules 6 and 7 to deal with fees for application for approval as a State strategic project as a purpose for which relevant land may be taken, given the discontinuation of investigator's authorities and private infrastructure facilities.

The new schedules generally reflect the design of other schedules for fees in the SDPWO Regulation. The schedules prescribes the fee payable and how it is to be indexed, and requires the Coordinator-General to publish the amount of the fee on the Department's website in accordance with the prescribed formula (effectively, requiring an annual update of the fee payable to be published on the website once indexation takes effect).

Schedule 6 Fees for part 6, division 7 of the Act

The amendments replace the former schedule 6 with a simplified layout, omitting the former part 2 (Table of fees) as there is only one fee to be prescribed, being the fee for an application for endorsement of a State strategic project as a purpose for taking land under amended section 144 of the SDPWO Act. The fee is based on the former private infrastructure facility application fee.

The amended value of the fee if becoming payable before 2027 is the same as the amount of the private infrastructure facility application fee prior to 2021 (as prescribed prior to amendment), CPI indexed for 2021 and each subsequent year up to the present. That is, an application fee paid for a private infrastructure facility approval application immediately prior to commencement of the amendments and the fee for an application for endorsement of a State strategic project as a purpose for taking of land immediately after commencement would be the same.

The preservation of the value of the fee reflects the fact that the evaluation of the application represents the same type and scale of effort on the part of the Coordinator-General. The fee will continue to be indexed on an annual basis.

If an application is made for an amendment of the declaration of the State strategic project as a purpose for taking of land under amended section 148 of the SDPWO Act, the same fee is applicable.

The amount of the fee payable is subject to any waiver as per amended sections 144(3) and 148(3) of the SDPWO Act.

Schedule 7 Fees for part 6A of the Act

New schedule 7 is inserted into the SDPWO Regulation to set out the fee payable for an application for an access authority made under section 153M of the amended SDPWO Act.

The prescribed fee for an access authority application, if becoming payable before 2027, is the same as the amount of the fee for the former investigator's authority application prior to the amendments commencing, CPI indexed for 2021 and each subsequent year up to the present. This reflects the transition from the former mechanism to the new access authority regime. The effect is that the fee payable for an application for an investigator's authority made immediately prior to commencement of the amendments, and the fee payable for an application for an access authority post-commencement, are the same.

As per section 153M(4) of the amended SDPWO Act, the Coordinator-General may waive all or part of the fee.

Part 4 Other amendments

Division 1 Amendment of Environmental Offsets Regulation 2014

Clause 62 Regulation amended

Clause 62 provides for amendment of the *Environmental Offsets Regulation 2014*.

Clause 63 Amendment of sch 1 (Activities prescribed for section 9(c) of the Act)

Clause 63 inserts a new prescribed activity for section 9(c) of the *Environmental Offsets Act 2014*, being development carried out under an SDA approval.

Division 2 Amendment of other legislation

Clause 64 Legislation amended

Clause 64 provides that schedule 1 of the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026 amends the other legislation mentioned in that schedule in the way set out.

Schedule 1 Other amendments

Local Government Electoral Act 2011

1 Section 113(4), definition *relevant planning application*, paragraph (d)(i), 'prescribed development,' —

Clause 1 omits reference to 'prescribed development' from the list of things that are *relevant planning applications* for the purpose of identifying prohibited donors for the *Local Government Electoral Act 2011*.

The reference is removed as 'prescribed development' is no longer a concept. Persons who also are proponents for resource projects in relation to an infrastructure coordination plan may also be considered a *property developer* for the purpose of the Act. This is particularly relevant where their business involves making development applications of the type affected by part 5, division 4 of the amended SDPWO Act. As such, the removal of 'prescribed development' will not materially affect the policy intent and operation of the *Local Government Electoral Act 2011* in preventing the making of prohibited political donations.

Planning Act 2016

1 Section 16, note—

Clause 1 inserts notes to section 16 of the Planning Act to aid in interpretation, directing to the SDPWO Act in respect of interim planning instruments in effect pursuant to new section 85K.

2 Section 23—

Clause 2 inserts a note to section 23 of the Planning Act, which deals with making or amending temporary local planning instruments (TLPI). The note directs attention to new section 85K of

the SDPWO Act, as an interim planning instruments made under that section Act is taken to be a TLPI.

3 Section 36(7)(c)—

Clause 3 amends existing section 36(7)(c) of the Planning Act, requiring a designator for an infrastructure designation to take also take into account a development scheme for an SDA if any land on which SDA-related development is carried out if that land is the premises for making or amending a designation (in addition to the pre-existing requirement to consider such development schemes if the subject premises are within an SDA).

4 Section 36—

Clause 4 inserts definitions of *SDA-related development* and *State development area* for the purposes of section 36 of the Planning Act, to give effect to the amendments to section 36(7)(c) carried out by clause 3 of this schedule.

5 Section 78(1), note—

Clause 5 updates the preexisting note relating to making a change application to a development approval under section 78 of the Planning Act. The note now directs attention to the new provisions of the SDPWO Act that deal with converted SDA approvals.

6 Section 78A(1), note—

Clause 6 updates a preexisting note, drawing attention to the effect of new section 85ZC of the SDPWO Act on the identification of the responsible entity for converted SDA approvals.

7 Section 84(2), note—

Clause 7 updates a preexisting note, pointing to the effect of new section 85ZE of the SDPWO Act on the process of making cancellation applications for converted SDA approvals.

8 Section 85(1), note—

Clause 8 inserts an amended note which identifies new section 85Z of the SDPWO Act as relevant to the lapsing of converted SDA approvals.

9 Section 86(1), notes—

Clause 9 inserts an additional note 3 to the existing notes in section 86(1) of the Planning Act. The new note directs attention to the effect of new section 85ZA of the SDPWO Act on making an extension application for a converted SDA approval.

10 Section 87(1), note—

Clause 10 amends the existing notes within section 87(1) of the Planning Act to identify that new section 85ZA of the SDPWO Act has an effect on the assessing and deciding of an extension application for a converted SDA approval.

11 Section 119(2), notes—

Clause 11 inserts an additional note to section 119(2) of the Planning Act to assist in determining when an infrastructure charges notice may be given for a converted SDA approval.

12 Section 139, note after subsection (2)—

Clause 12 amends section 139 of the Planning Act to insert an additional note dealing with the effects of new section 85ZF(4) of the SDPWO Act on the making of a conversion application for a converted SDA approval.

13 Section 160A(1)(a), note—

Clause 13 amends the notes in respect of enforcement authorities for development approvals to point to the new section 85X of the SDPWO Act, which deals with who the enforcement authority is for converted SDA approvals.

14 Schedule 2, definition *minor change*, note—

Clause 14 amends the notes to the *minor change* definition under the Planning Act to direct attention to new section 85ZB of the SDPWO Act, which describes how a minor change can be made to a converted SDA approval.

15 Schedule 2—

Clause 15 inserts a new definition of *SDA approval* into the Planning Act, which means an SDA approval under the SDPWO Act. This is necessary to give proper effect to clauses 1 through 14 above.

Planning and Environment Court Act 2016

1 Section 11, note after subsection (7)—

Clause 1 amends notes to section 11 of the *Planning and Environment Court Act 2016* to direct attention to the effect of new section 85Y(3) of the SDPWO Act regarding a proceeding about a converted SDA approval wherein a declaration is sought about a development approval or conditions, or a decision made under the Planning Act about same.

State Development and Public Works Organisation Act 1971

1 Section 35N(5), 'apply'—

Clause 1 makes a correction for legibility.

2 Section 76O(2)(c), 'section 76N(c)'—

Clause 2 corrects a reference to a subsection.

3 Section 80(2)—

Clause 3 inserts a note which directs attention to new section 85H regarding varying a development scheme from SDAs where the variation would cause certain development to no longer be regulated by the scheme.

4 Section 81(1)—

Clause 4 inserts a note which directs attention to new section 85H regarding abrogation of a development scheme from SDAs where the abrogating would cause certain development to no longer be regulated by the scheme.

5 Section 84C, after penalty—

Clause 5 inserts a note that highlights the relationship between the offence of contravention of an SDA approval and the ability to give enforcement notices for such contraventions.

6 Part 6, division 8, heading, 'critical infrastructure'—

Clause 6 gives effect to replacement of critical infrastructure projects with State strategic projects.

7 Sections 153C, 153F(1) and 153G(1), 'critical'—

Clause 7 gives effect to replacement of critical infrastructure projects with State strategic projects.

8 Section 153H, from 'critical infrastructure easement'—

Clause 8 gives effect to replacement of critical infrastructure projects with State strategic projects.

9 Section 153I(1) and (4), 'critical'—

Clause 9 gives effect to replacement of critical infrastructure projects with State strategic projects.

10 Section 157OA(2), 'suspects on reasonable grounds'—

Clause 10 amends wording to be consistent with modern drafting approaches.

11 Schedule 2, definition *local body*, paragraph (f)(i), 'paragraph (d)'—

Clause 11 corrects a listing order error.

Sustainable Ports Development Act 2015

1 Section 19(4)(b), 'regulated development'—

Clause 1 updates an existing reference to State development areas with modern language.

Transport Infrastructure Act 1994

1 Section 49(1)(b)(i), 'significant project'—

Clause 1 corrects an outdated reference to 'significant project' to the modern 'coordinated project'. The terms were exchanged by passage of the *Economic Development Act 2012.*