Written Briefing for the
PRIMARY INDUSTIRES AND RESOURCES COMMITTEE
regarding the
STATE DEVELOPMENT AND PUBLIC WORKS ORGANISATION (CRITICAL MINERALS) AND OTHER LEGISLATION AMENDMENT BILL 2026

INTRODUCTION

The Primary Industries and Resources Committee (the Committee) has requested the Department of State Development, Infrastructure and Planning (the Department) provide a written briefing on the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026 (the Bill).

The Bill was introduced into the Queensland Parliament on 2 June 2026 by the Honourable Jarrod Bleijie MP, Deputy Premier, Minister for State Development, Infrastructure and Planning and Minister for Industrial Relations.

BACKGROUND

The *State Development and Public Works Organisation Act 1971* (SDPWO Act) is an Act to provide for State planning and development through a system of organisation, coordination, planning and facilitation. The Act's functions can be loosely grouped into four major aspects:

- environmental impact assessment;
- facilitation of significant projects;
- infrastructure and land use planning; and
- organisation and delivery of public works.

The Act incorporates the Coordinator-General, a corporation sole constituted by the person appointed by the Governor in Council as the Coordinator-General from time to time. The Coordinator-General has administrative responsibility for the functions under the SDPWO Act and has a number of powers, which they may exercise at the Minister's direction or at their own discretion (depending on the nature of the function). The Act's Minister has a selection of key powers, and controls the exercise of certain powers of the Coordinator-General by way of personal or Governor in Council approval.

The Coordinator-General was originally incorporated under the *State Development and Public Works Organisation Act 1938*, which was repealed and replaced by the 1971 Act of the same name. The position and its functions are long-standing and have been subject to progressive change and augmentation over time. As such, the SDPWO Act differs in some respects from more contemporary legislation, as it serves to consolidate various state development functions under the auspices of the Act's Minister and Coordinator-General, rather than serving a single, express purpose or dealing with a discrete policy area.

Queensland's Coordinator-General was the first of its kind and, until recently, was unique in position and function across Australian jurisdictions. However, over the previous two years, jurisdictions including Western Australia, the Northern Territory, and South Australia have established statutory Coordinator-General roles or equivalents and have adopted a selection of the Queensland Coordinator-General's functions, along with new ones.

The Bill would substantially amend the SDPWO Act on a scale not undertaken since the passage of the *State Development, Infrastructure and Planning (Red Tape Reduction) and Other Legislation Amendment Act 2014* (2014 Act No. 40). The primary objective is the amendment of the SDPWO Act to modernise and improve it, placing the government in position to evaluate, plan, enable and deliver the development of key economic drivers for Queensland. A particular focus is placed on functions within the Act that can support the development of the critical minerals sector in Queensland, with a view to the entire value chain from pit to processing to port.

The Bill seeks to:

- introduce a new project designation, State strategic projects and associated facilitation powers, the State significance notice, the modification order and acquisition of land, 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, through infrastructure coordination plans;
- 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 Bill's primary effect is amendment of the SDPWO Act. The Bill also amends a selection of other Acts and subordinate legislation as corollary or consequential to the Bill's primary objectives, or to make minor corrections and language updates to other Acts in relation to the SDPWO Act. The other laws that would be amended are:

- Environmental Offsets Regulation 2014 (EO Regulation)
- State Development and Public Works Organisation Regulation 2020 (SDPWO Regulation)
- *Local Government Electoral Act 2011* (LGE Act)
- *Planning Act 2016* (Planning Act)
- *Planning and Environment Court Act 2016* (PEC Act)
- *Sustainable Ports Development Act 2015* (SPD Act)
- *Transport Infrastructure Act 1994* (TI Act).

POLICY DRIVERS

The proposed amendments seek to achieve the Queensland Government's objective of having a regulatory framework that supports investment. This is a broad objective that drives both modernisation and functional reform of the SDPWO Act. The focus of amendments is on functions within the Act that support major private sector development, particularly in the resources sector with a view to improving Queensland's value proposition as a jurisdiction to invest in critical minerals development.

To that end, amendments centre on:

- coordinated projects, as a framework for environmental impact assessment of major projects;
- infrastructure coordination plans (in the current Act, prescribed development), to provide means of cooperative planning and coordination of infrastructure delivery for resource projects;
- prescribed projects and state strategic projects, as a means of facilitating individual projects of significance through the statutory approval process, particularly where projects are unfamiliar or involve new approaches;
- State Development Areas, being areas of planned industrial land that may be best locations for development of downstream critical minerals processing facilities;
- land and tenure tools, which provide for ways to resolve tenure challenges for projects of greatest significance where other options have been exhausted; and
- enforcement, as a means of ensuring proper execution of projects in a way that protects people and places, and guards against improper or unlawful development that might impact on or sterilise better uses.

The objective of the amendments, taken together, is to ensure the SDPWO Act maintains Queensland's competitive edge, remains relevant in an evolving regulatory and investment context, and provides Government with the necessary tools to drive development of priority economic sectors. Not all powers will be necessary or appropriate for all projects, but these amendments will seek to ensure that the Government has the right tools available to resolve project-specific challenges and plan for emerging economic priorities.

Critical minerals is a priority economic sector. Geosciences Australia has valued Queensland's Mineral Economic Demonstrated Resources at $1.028 trillion, approximately $700 billion (around 68%) of which are located in the North West Minerals Province. Mining and downstream processing can provide for significant numbers of new jobs and grow regional communities, as has happened many times throughout Queensland's history. Development of these resources represents both a major opportunity and a major challenge for Queensland.

Demand for critical minerals is growing. Aggregate world demand for critical minerals such as copper, permanent magnet minerals, silicon, graphite, and vanadium is set to increase substantially towards 2050. Queensland has significant deposits of these minerals. Queensland's resources are well-explored and increasingly well defined. However, with the exception of copper, there are no operational mines for any of these commodities in the state. Development has been constrained by remoteness, regulatory complexity and gaps, expensive infrastructure demands, and strong competition for capital.

Some of these resources are located in remote regions which have not been subject to significant prior industrial or resources activity; as a result they may not yet have the infrastructure, services and labour forces to drive and support major step-change development of the sector. Additionally, some of these minerals are being targeted for the very first time in Queensland, which brings additional practical and regulatory challenges to their development.

Critical minerals have been recognised as key to a variety of economic areas and policy interests, including (but not limited to) renewable energy, automotives, advanced computing, defence, and advanced manufacturing. The pricing of these commodities will increasingly be shaped by strategic drivers and geopolitical policy interests. This much is recognised by the United States – Australia Framework for Securing of Supply in the Mining and Processing of Critical Minerals and Rare Earths, entered into on 20 October 2025. This framework commits both parties to significant efforts to secure supply of these minerals, including through permitting improvements and mobilisation of private and public sector financing.

This Bill seeks to respond to the growing demand and complexity in the critical minerals sector, to secure Queensland's fair share of investment. At the same time, the Bill seeks to establish effective tools and modernise existing functions to allow the Queensland Government to respond to emerging priorities for economic development across all industries.

CURRENT AND PROPOSED ARRANGEMENTS UNDER THE ACT

Coordinated projects

Current framework

Part 4 (Environmental coordination) of the SDPWO Act contains the coordinated project framework. Under this framework, the Coordinator-General can evaluate the environmental impacts of major projects (of any type) and inform subsequent permitting decisions made about those projects under other Acts. Somewhat distinct from the environmental impact statement (EIS) process under the Environmental Protection Act 1994 (EP Act), a coordinated project can deal with and is integrated with a variety of approvals.

The process under part 4 can be summarised as follows:

(1) proponents may apply to the Coordinator-General for a coordinated project declaration (section 27AA);

(2) the Coordinator-General may declare the project to be a coordinated project requiring an environmental impact statement (EIS) or impact assessment report (IAR) (sections 26 and 27);

(3) where an EIS is required, the Coordinator-General will publish terms of reference, which establishes the requirements of the EIS for that project (section 29 and 30);

(4) for a project requiring either an EIS or IAR, the relevant documentation must comply with schedule 1 of the SDPWO Regulation;

(5) the Coordinator-General must publicly notify a draft EIS, and must notify a draft IAR if certain criteria are met (section 33 and 34H) – submissions may be made by any person;

(6) the Coordinator-General may decide to accept a draft EIS or IAR as a final EIS or IAR (sections 34A and 34I), if it adequately addresses the project's environmental effects;

(7) the Coordinator-General must then prepare their report evaluating the EIS or IAR, referred to by the Department as the 'Evaluation Report' (sections 34D and 34L);

(8) in the Evaluation Report, the Coordinator-General may give directions and recommendations about how the project is to be treated in subsequent approval processes, and may 'state' and/or 'impose' conditions (sections 34D(3)(b)–(d) and 34L(3)(b)–(d));

(9) once evaluated, a proponent of a coordinated project may apply for a change to the project. Such a change is dealt with by part 4, division 3A. The Coordinator-General may amend or remove existing stated or imposed conditions and set down new ones in the report evaluating the change (referred to by the Department as a 'Change Report').

The concept of 'stating' and 'imposing' conditions is key to the coordinated project framework. The Evaluation or Change Report does not, by itself, grant a project permission or approval to commence activities. The proponent must make applications for such approvals under the relevant Act. However, part 4, divisions 4–7 set out the relationship between other Acts and the coordinated project process.

For example, a project may require an environmental authority under the EP Act and a development approval under the Planning Act. If the Coordinator-General stated conditions for either of those types of approvals under sections 39(1)(a) or 47C of the SDPWO Act, then those stated conditions must be imposed by the relevant decision maker on the relevant approval (if granted), and conditions that are inconsistent with the Coordinator-General stated condition must not be imposed or are void to the extent of inconsistency. For the EP Act, this is given effect by section 205 of that Act.

Practically, the Coordinator-General works with the relevant agency with jurisdiction for such approvals to consider and develop these stated conditions, with the intention of aligning the Evaluation or Change Report with the subsequent approval process to streamline the application when it is made.

For certain application processes, additional streamlining is provided where a proponent has completed the coordinated project process and their Evaluation or Change Report has not lapsed. Part 4, division 4 of the SDPWO Act sets out process integration with the Planning Act. The Coordinator-General, in addition to stating conditions, may also direct that a development approval be granted or refused, which must be adhered to. Doing so causes certain stages of the development assessment process to not apply and other modifications to be made in respect of referral agency responses and public notification. This recognises that substantially the same outcomes are achieved through the government coordination and public notification involved in the EIS process.

For environmental authorities, similar streamlining is available where the environmentally relevant activities and risks of those activities have been considered, notified and conditioned as part of the coordinated project process (variously sections 112, 123, 125, 126, 139, 167, 205, and 226A of the EP Act).

Where none of part 4, divisions 4–7 apply, the Coordinator-General may instead 'impose' conditions on the project, under division 8. The intention of these imposed conditions is to provide for management of an environmental effect (as defined in schedule 2 of the SDPWO Act) where no other Act provides for the making of such a condition. Where the Coordinator-General imposes a condition, they have primary responsibility and enforcement jurisdiction for that condition.

Such streamlining and conditioning outcomes are seen as a means of progressing an integrated whole-of-government assessment process for a project which results in an upfront package of coordinated, integrated conditioning outcomes and subsequent application process streamlining for key approvals.

Proposals

The Bill's proposals in respect of part 4 of the SDPWO Act relate to two Acts: the *Regional Planning Interests Act 2014* (RPI Act) and the TI Act. The proposal will allow the Coordinator-General to state conditions for regional interests development approvals (RIDA) under the RPI Act, and for a selection of approvals and decisions under the TI Act, being those involving access to, control of and works involving state-controlled roads, and interference with railways.

The driver for inclusion of these particular Acts is twofold:

(1) in the time since 2010, a RIDA has become a key approval for resource projects and

(2) the scope of EIS and IAR assessment routinely includes impacts on areas of regional interest and transport networks, but there are limited outcomes to the evaluation of these aspects as the Coordinator-General does not have the requisite condition-stating powers.

RIDA and coordinated projects

The Bill proposes to insert new division 6D via clause 11. Fundamentally, this new division will allow the Coordinator-General to state conditions to be imposed on a RIDA and provide process streamlining for the RIDA application process under the RPI Act.

Where the coordinated project involves carrying out an activity that would require a RIDA, the Coordinator-General may direct that a RIDA be granted or refused, and state conditions. The decision-maker for the RIDA is required to have regard to the Coordinator-General's evaluation of the project and must comply with the Coordinator-General's direction, including imposing any stated conditions. Where this occurs, process streamlining is available that recognises the steps carried out as part of the coordinated project process.

This streamlining includes removing the requirement for public notification of the application if the EIS or IAR (or change) for the project was publicly notified, and removing the requirement for referral of the application to assessor agencies, which recognises that the Coordinator-General would have already coordinated the evaluation of the project with the relevant government agencies. The decision maker is to have regard to any submission made on the EIS, IAR or change, as well as the Coordinator-General's report, in making their decision about the RIDA.

TI Act and coordinated projects

The Bill proposes to insert new division 6E via clause 11. This will create a condition-stating power for the Coordinator-General in respect of:

(1) 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;

(2) 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;

(3) 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; and

(4) approval to interfere with a railway under the control of a railway manager under section 255(1)(a) of the TI Act.

This condition-stating power would operate similarly to the Coordinator-General's powers in respect of resource tenures (via part 4, divisions 5 and 6A–6C of the SDPWO Act). The approach is more direct, where a condition stated by the Coordinator-General in an Evaluation or Change Report is taken to be a condition applying to an approval or decision under the TI Act as mentioned above.

The process of obtaining such an approval or decision under the TI Act in a proponent's favour is less prescriptive than the processes under the Planning Act, EP Act or RPI Act, and so the same level of intensive process integration is not called for.

Other changes relevant to part 4

The Bill proposes other changes to part 4.

Clause 3 would insert new section 24A, which provides clarity about references to coordinated projects. There is the potential for confusion about references to 'project' vs 'coordinated project' in the current Act within part 4; this provision will provide clarity.

The changes that would be caused by clauses 4–10 and 12 of the Bill relate to the new conditioning proposals described above, providing for key linkages with various parts of the coordinated project process that either require certain steps to be taken and notice to be given, or enliven the new conditioning powers.

Clause 12 also has a corrective aspect, seeking to ensure that division 8 (imposed conditions) does not conflict with the power to state conditions under divisions 6B and 6C.

Additionally, clause 58 (which would amend the SDPWO Act's dictionary schedule) makes a safeguarding change to the definition of proponent which will ensure that part 4 applies to proponents of projects if their project has commenced. For example, where the project has commenced construction and the project proponent seeks to make a change that would affect conditions imposed on the operational stage, there will be no ambiguity about their ability to do so. No such issue had arisen to the Department's knowledge, but clarifying the definition avoids any issues in future.

Infrastructure coordination plans

Current framework

Part 5 of the SDPWO Act contains the prescribed development framework. Part 5 was inserted into the Act in 1981 to provide for an effective means for the coordination and financing of the infrastructure requirements of large-scale mineral and energy resource development, handling and processing projects. The framework was introduced in the context of proposed expansion of Queensland's aluminium value chain, including proposals to establish a new aluminium smelter in Central or North Queensland and expansion of alumina refineries in Gladstone.

The framework consists of four major functions. The first is investigation of proposed projects by the Coordinator-General at the Governor in Council's direction (section 55). The Coordinator-General is to report to the Minister about the investigation, which generally would include an analysis of the project's infrastructure needs and ways of meeting those needs.

The second aspect is the declaration of prescribed development and preparation of an infrastructure coordination plan. The Governor in Council may declare the project to be prescribed development (section 57) and thereafter the Coordinator-General must prepare the plan, which may identify means for financing and coordinating the provision of infrastructure for the development as per section 59 of the SDPWO Act.

The plan may be approved by the Governor in Council and, thereafter, the requirements of the plan become akin to a deemed condition on any relevant approval given for the project subject of the plan (section 62).

The third and fourth aspects relate to implementation of the infrastructure coordination plan. At the time of insertion of part 5, the legal capacity of local governments to act in a commercial manner, especially regarding infrastructure provision, was less clear. As a result, section 63 expressly authorises local bodies (including local government and government-owned corporations) to enter contractual arrangements with developers to deal with the financing and delivery of infrastructure. However, these agreements must first be referred to the Governor in Council for approval before they can be executed in accordance with sections 64 and 65.

The final aspect relates to development approvals. Any development approval for the prescribed development must be referred to the Coordinator-General under section 67. The Governor in Council may decide to retain or remit the application to the decision-maker as per section 68. If retained, the Governor in Council can decide the application in accordance with section 71.

The framework was successfully deployed in 1981-1982 to facilitate the delivery of infrastructure to support the 4th expansion of the Gladstone Alumina Refinery. This involved a payment of $2.5 million (2025: $12.3 million) from the developer to Queensland Treasury, which was proportionately distributed to Gladstone City and Calliope Shire Councils for expenditure on road upgrades. The developer was also to pay certain novel sewerage and general rates reflecting the demand placed on local government infrastructure by the project. Additionally, the developer was to arrange for the construction of dwellings and worker's accommodation facilities, and seek to recruit from Gladstone's TAFE program at a fixed rate of tradespeople to apprentices.

The Gladstone Alumina Refinery prescribed development represented an early foray into demand-based infrastructure contributions by the State for downstream resources sector development, seeking to meet the infrastructure and service demands of a growing regional industrial hub. As part of the part 5 framework, the application for a town planning permit for the refinery expansion was referred to the State and ultimately decided by the Governor in Council.

In the time since, part 5 has fallen into disuse. No prescribed development has been declared since 1981.

Proposals

The Bill proposes a complete rework of part 5 of the SDPWO Act by way of clause 13.

The essential function of prescribed development as a framework for planning for and responding to infrastructure demands created by the resources sector remains valuable. However, some of the issues which part 5 was originally inserted to deal with have been resolved, and new issues have emerged, which requires a modernised framework to address. It is therefore proposed to streamline part 5 into three key functions. They are investigation; the infrastructure coordination plan; and relevant planning applications. Each of these three functions will retain key cornerstone mechanisms from the existing part 5, such as the consideration of infrastructure needs, requirement to comply with a plan, and referral of development applications.

It is proposed that there is no longer a separate means of 'declaring' prescribed development; there would be no 'declarations' to be made under the amended part 5. Additionally, the system of referral for agreements is proposed to be removed. The legal capacity of local governments to engage with the private sector on a commercial basis is beyond doubt, codified by the *Local Government Act 2009*, and has become part of the standard business of local governments in their role as development infrastructure planner and provider under the Planning Act.

A key policy driver in reform of part 5 is to ensure applicability to groups of projects. Prescribed development under the current SDPWO Act is limited to a single project; the capacity of local governments, state infrastructure providers and government-owned corporations to engage with a single proponent is clear and there is no need for new legislative functions in the SDPWO Act to support those arrangements. However, the growth of the critical minerals sector and interest in developing new resource basins has emphasised the importance of a framework for coordinating the provision of infrastructure to meet the needs of multiple related projects. The focus is therefore on taking a basin-scale or whole-of-value-chain approach to planning and coordination of infrastructure.

Part 5 would continue to be limited to the resources sector. For clarity, 'mineral and energy resources of the State' would be defined. These are those resources that vest in the State, the exploitation of which is governed by the State's Resources Acts. This would therefore include minerals, coal, coal seam gas, petroleum, and geothermal energy. This preserves the existing scope of part 5 as inserted in 1981, but provides additional clarity and possible flexibility if changes to the Resources Acts are carried out (such as to include new types of resources).

The ringfencing of part 5 reflects the underlying policy driver, being to provide a framework for coordinating infrastructure needs for the resources sector. The Planning Act effectively provides for planning and providing for infrastructure for development regulated by that Act, including urban, residential, energy and industrial sectors; however, upstream resources sector development (such as mining or gas extraction) is not regulated by the Planning Act and thus sits outside its infrastructure planning framework. The reforms to part 5 are proposed to establish a framework for coordinating infrastructure required by, or associated with, resources sector development in a flexible and cooperative way.

The proposed amended part 5 routinely features the phrase 'infrastructure required by, or associated with' projects. This is to encompass the dual aspect of infrastructure demand in relation to these projects. Projects require infrastructure for their own development – e.g. mine sites require power and water supply to operate. Projects can also generate associated infrastructure demands. For example, establishment of a series of new mines in a region could lead to population growth as a portion of mining workforce moves into nearby communities; this may progressively create demand for housing, healthcare and childcare services. Whilst the existence of adequate healthcare is not itself essential to a mining project and it is not the responsibility of an individual operator to become such a service provider, the overall development of the region may call for a coordinated approach to public sector service planning to meet increased demand for community and social services and infrastructure.

Part 5 is proposed to be renamed to Infrastructure coordination plans, to better reflect the key operative function of the framework. The term 'prescribed development' would be discontinued. The main purposes of the part would reflect the policy intent: to promote and support projects that develop the State's mineral or energy resources; to facilitate the coordinated and efficient provision of infrastructure for those projects; and to efficiently deal with planning applications to give effect to the development of the projects and infrastructure.

Investigation

Part 5, division 2 would deal with development investigations. Under this division, the SDPWO Act Minister may direct the Coordinator-General to carry out an investigation in relation to infrastructure for one or more resources projects.

The Minister may only do so taking into consideration the matters described at amended section 56(5), being that the project(s) may be of major economic significance; that they would create a need or drive demand for infrastructure in an area; that it may be in the State's interest to coordinate the provision of infrastructure to meet those needs or demands; and that an investigation is likely to help inform a later decision about whether to prepare an infrastructure coordination plan.

The Coordinator-General's task is not an investigation of the merits of each project in of itself. That is a matter for other processes, such as environmental impact assessment. Instead, the focus of the investigation is to undertake an analysis of the infrastructure needs and likely demands generated by the project(s).

The Coordinator-General is to carry out the investigation, taking into account the infrastructure needs of the projects, the solutions advanced by each proponent to meet those needs, and other associated demands that could be placed on infrastructure networks and services. The Coordinator-General is to consider possible solutions for meeting these demands, including alternative options than those proposed by proponents or contemplated by relevant service providers.

To assist in carrying out the investigation, the Coordinator-General could enter certain land if it is described in the Minister's direction to carry out the investigation. This can be land where the projects are proposed, land hosting existing infrastructure, or land where new infrastructure is proposed. Certain process requirements would apply to the Coordinator-General under new section 56G and compensation would be payable for any loss or damage caused, under new section 56H.

Proposed sections 56K would require the Coordinator-General to prepare a draft investigation report detailing their findings. The report must contain information about the projects, their infrastructure needs, options for meeting those needs, and an analysis of those options. It must also include a recommendation about whether an infrastructure coordination plan should be made for some or all of the infrastructure required by, or associated with, the projects subject of the investigation.

Proposed section 56L would require that the Coordinator-General provide 'affected persons' a copy of the draft report and invite them to make submissions. These persons include the proponents for the relevant projects, the local government for the area where the projects are proposed, the chief executive for the Planning Act, each person operating or proposing infrastructure identified in the Minister's direction to investigate, and anyone prescribed by regulation. Any proponent and decision maker for a relevant planning application would also need to consulted – this concept is explained further below, under the heading 'Relevant planning applications'.

This consultation would provide a formal avenue to engage with key persons who would be involved in the development itself or responding to its needs. However, it is expected that the Coordinator-General would regularly be engaging with all of these persons as the investigation progresses to obtain information, consider scenarios and test the findings.

Following consultation on the draft report, the Coordinator-General must make any amendments, finalise and submit the report to the Minister for their consideration.

Making an infrastructure coordination plan

Part 5, division 3 would deal with making infrastructure coordination plans (ICP). Once the Minister has been provided with the Coordinator-General's investigation report, they must decide whether or not to direct the Coordinator-General to prepare an ICP for the infrastructure for the projects.

The Minister would need to be satisfied of the matters described at amended section 57(3), which echo section 56(5); that is, the Minister had to first consider the project(s)' possible economic significance and potential infrastructure demands, and the potential need for coordination; now the Minister must be satisfied of that significance, that there is a legitimate need or demand, and that it is in the interest of the State to facilitate a coordinated and efficient infrastructure provisioning approach.

New section 57A would set out the requirements for an infrastructure coordination plan. Under subsection (1), the contents of the plan can be loosely grouped into three parts: administrative requirements such as the parties to the plan and its expiry; identification of the relevant projects, required infrastructure, and land for both; and the means by which infrastructure will be coordinated, along with any further steps to be taken by the parties in respect to progressing infrastructure and project delivery.

The basic elements of a plan come together to identify what infrastructure is needed, and where; what tasks need to be undertaken to plan, provide for and deliver it; and who is responsible for what tasks. Section 57A(1)(h) contains the operative provision, which provides that all parties must take reasonable steps to ensure they comply with any obligations under the plan. This a general duty, for which there are no offence provisions for failing to comply or direct consequences for the progression of the relevant projects – this can be distinguished from section 62 of the current SDPWO Act, which would cause compliance with the plan to effectively become a development condition for relevant land use or similar condition for other project approvals.

This reflects that an ICP is a joint endeavour between the public and private sector; an ICP would be of limited appeal to parties if they compelled compliance on pain of penalty. This fact also reflects that implementation of an ICP is anticipated to be through party-to-party contractual arrangements. Contractual compliance is a matter best suited to the parties to that contract, rather than creating the State as regulator. However, injunctive relief could be sought in certain circumstances, such as to prevent a party taking action that is at cross-purposes to their obligations.

Section 57A(2) allows for identification of a class of planning applications for the purposes of division 4; this is dealt with further below under the heading Relevant planning applications.

The requirements for an ICP set out in section 57A(1) and (2) are not exhaustive. An ICP may contain other aspects as required by the parties.

Making of the ICP is a collaborative effort between public and private sector. The Coordinator-General would, practically, engage closely with the parties in developing the ICP. Nonetheless, a formal consultation period with the proposed parties would be provided by new section 57B, and the Coordinator-General must summarise any submissions obtained and how they were factored into the ICP when providing the plan to the Minister.

Approval of the ICP is by way of regulation. The Minister therefore has practical decision-making control about whether an ICP will or will not be made. The Minister could only recommend that the ICP be approved by the making of the regulation if satisfied that the plan provides for infrastructure to be provided in a coordinated and efficient way.

Proposed division 3, subdivision 2 would provide for amendments to be made to the ICP once it is in effect. Minor amendments (such as to correct typographical errors) could be made without having to re-approve the ICP by regulation, but notice of the minor amendment must be given to all parties. An amendment that is not minor must need to be carried out in generally the same way as the plan was made the first time, including the requirement to consult and approval by regulation.

<u>Relevant planning applications</u>

Part 5, division 4 would deal with relevant planning applications.

Where a development investigation under part 5 is underway, or where an ICP is in effect, certain development applications made under the Planning Act could be relevant planning applications. Relevant planning applications would be required to be referred to the Coordinator-General. The SDPWO Act Minister must make a decision about each referred application, being whether to return it to the original decision maker, suspend it, or decide it themselves.

The policy intent of this mechanism is to provide for a streamlined single-touch system to managing development applications that pertain to the infrastructure or projects relevant to an investigation or ICP. Rather than potentially dispersed progression of these applications, division 4 would centralise them and provide for an expedited assessment pathway.

How does the Bill characterise ‘relevant planning applications’?

A ‘relevant planning application’ is defined by reference to two classes. The first is the ‘type’ of development. The second is its relationship to the investigation or ICP.

In respect of 'type', the definition relies on the Planning Act. A planning application is proposed to be defined at new section 55B as either:

(1) a development application made under the Planning Act for material change of use of premises, carrying out operational work, or reconfiguring a lot;

(2) a change application in respect of any of the development listed in (b) above;

(3) an extension application for an approval for development mentioned in (c) above.

This effectively captures the key land use approvals for the types of projects and infrastructure that are relevant to part 5, and associated applications that bear on that development.

In respect of 'relationship' – an additional filter is required to ensure that only particularly relevant applications are referred to the Coordinator-General. Thus, it is proposed that a planning application only becomes a relevant planning application where:

(a) during the development investigation – the application involves land described in the Minister's direction to investigate i.e. land for the project(s), or land for existing or proposed infrastructure; or

(b) whilst the ICP is in effect –

    (i) the application involves land described in the ICP i.e. land for the project(s), or land for infrastructure listed in the plan; or

    (ii) the application is within the class of applications identified in the ICP.

An application that is 'an application of a class identified in the ICP' would provide for division 4 to apply to development where the specific land for the development is not completely certain. For example, the ICP may seek to coordinate the delivery of a regional workforce accommodation facility within a certain resource community. However, where the facility should specifically be located is subject to further analysis. The ICP may therefore identify that a development application for material change of use for workforce accommodation made within a general area (e.g. the town's limits as described by the place name gazetteer) is a relevant planning application, if the proposal met certain criteria e.g. was for more than a certain minimum number of beds.

This mechanism would provide for the ability to manage such applications once developed further in accordance with the ICP. It also may allow for capture of other applications for development of a similar type. For example, if someone other than a party to the ICP proposed a workforce accommodation facility matching the development described in the ICP, it would need to be referred and considered by the Government in terms of its alignment with the objectives of the ICP.

Applicants and decision-makers for relevant planning applications would be brought into consultation processes about development investigations and preparation of ICPs by way of new sections 56L(1)(b)-(c) and 57B(3)(b)-(c) respectively, as the investigation and ICP pertain to their development proposal and the outcomes may affect their rights and obligations.

How would relevant planning applications be managed?

All relevant planning applications would need to be referred to the Coordinator-General under new section 58A. Once referred, new section 58C would cause the development assessment process under the Planning Act to be suspended; no further steps are to be taken by an applicant, assessment manager or referral agency during the suspension. An exception (at new section 58C(2)(a)) would allow a public notification period to be completed before the suspension took effect.

If an application is referred, section 58D would require the Minister to make a decision about how the application is to be managed. What options would be available to the Minister depends on what phase of part 5 is in progress:

- if the development investigation is underway, or if the ICP is being prepared (i.e. during the pre-plan period) then the Minister may decide to continue the suspension of the application;
- if the ICP is in effect, the Minister may seek to decide the application themselves;

- in any instance, the Minister can instead decide to return the application to the decision maker for them to assess and decide. This Minister may also decide to return an application if they had previously decided to continue its suspension. The SDPWO Act has no further bearing on those returned applications.

If an application is suspended during the pre-plan period, and then the ICP takes effect, the Minister must decide whether to return that application or decide it themselves (new section 58D(1)(c) and (2)(b)(ii)). An application cannot be indefinitely suspended.

The policy driver behind suspension of applications during the investigation period is to ensure that approval or refusal outcomes do not prejudice the possible outcomes for infrastructure coordination. If a particular infrastructure is approved or refused out of sequence, it may interfere with the coordinated and efficient delivery of infrastructure and frustrate the development of an ICP.

Where the ICP is in effect, the Minister would instead need to decide whether to return a referred application or to decide it themselves (new sections 58D(2)(a),(b)(ii) and 58I). The policy driver for this function is to allow the Minister to progress applications in a way that aligns with the objectives and content of the ICP. To provide the appropriate level of discretion, the Minister can consider a range of relevant matters and is not bound to consider the criteria or benchmarks set out in planning instruments (as per new section 58L). This approach is modelled on the Minister's call in function under the Planning Act (chapter 3, part 6 of that Act).

Before the Minister can decide the application, section 58I and 58J would require giving notice of that intention to assess and decide and invite submissions from the applicant and ordinary decision maker, and as well as the Planning and Environment Court, any referral agencies or any submitters (as relevant). These parties have a right to express their view about the Minister's intention, as it affects their statutory rights in respect of the application. The Minister must consider these submissions and confirm whether they will or will not decide the application.

Once the Minister decides the application under new section 58K, the approval would take effect as if decided by the ordinary decision maker, allowing for orderly management of subsequent applications (such as change or extension applications), monitoring and enforcement, infrastructure charges and agreements. It should be noted that change and extension applications may themselves be relevant planning applications subject to referral.

The Minister's decision under section 58K would not be appealable to the Planning and Environment Court by it being designated an 'excluded application' for the Planning Act (new 58N). This delivers on the objects of the part, to provide for deciding applications in an efficient and certain way that gives effect to the purposes in respect of promoting and supporting development of the State's mineral energy resources and facilitation a coordinated and efficient approach to the provision of infrastructure.

Exclusion from merits review is consistent with the effects of a Minsiter's call in under the Planning Act, itself based on the general principle that merits review is not available for decisions made personally by Ministers where the interests of the State or matters of policy of the executive government are at issue. Given the significance of projects and infrastructure which are dealt with part 5, the same logic applies in respect of the Minister's decisions about relevant planning applications. This gives best effect to the purposes of the part in respect of certainty of outcome and ensures that the interests of the State in respect of economically significant resources sector development are not prejudiced by litigation.

In line with the principle of Ministerial accountability to Parliament, the Minister must table a report in the Parliament which explains the reasons for the Minister's decision and provides copies of both the notice of intention to decide, and the decision notice. Judicial review remains available for these decisions.

The fact that an application is a relevant planning application would not prevent the applicant from withdrawing or changing it, as is their right under the Planning Act. New sections 58Q and 58R would protect these rights.

The Coordinator-General will also be required to maintain a publicly accessible online register recording the status of relevant planning applications, including any detail about decisions made by the Minister in respect of the application. Other information may be included, noting that application material is required to be made publicly available by way of the Planning Act.

New section 58T would allow declaratory proceedings to be commenced in the Planning and Environment Court, about things that have or should have been done in respect of a relevant planning application, or interpretation of part 5, division 4 and other aspects of part 5 as they relate to relevant planning applications.

To aid in the Minister's functions under part 5, including decisions about making ICPs and assessing relevant planning applications, amended section 59 would create a power for the Minister to obtain information.

Prescribed projects

Part 5A of the SDPWO Act contains the prescribed projects framework. A prescribed project is one which is considered significant, particularly economically and socially, to Queensland or a region. The SDPWO Act's Minister can declare a project to be a prescribed project which enlivens the Coordinator-General's powers under the SDPWO Act to ensure timely decision-making in relation to prescribed processes and prescribed decisions.

It is typically used after projects have obtained their primary approvals, are in the process of applying for their secondary approvals and are nearing construction commencement. However, it is not limited to this timing. Projects can be declared prescribed projects and have other designations under the SDPWO Act at the same time, such as a coordinated project declaration.

State significance notices and modification orders do not currently exist within the SDPWO Act. They are proposed for prescribed projects that are also declared as State strategic projects.

Current framework

The purposes of part 5A are set out in section 76A.

The SDPWO Act Minister may make a declaration of a prescribed project where they are satisfied that the project meets one of the criteria at section 76E. If the Minister considers the undertaking of the project is critical or essential for the State for economic, environmental or social reasons, the Minister may also declare the project to be a critical infrastructure project. These declarations must be made at the same time, by the same gazettal.

Following a prescribed project declaration, the Coordinator-General can:

(1) direct a decision-maker to progress an interim administrative process (a progression notice),

(2) issue a notice to decide which provides a timeframe for a decision-maker to make their decision (notice to decide), and

(3) with the Minister's approval, give a written step in notice to the relevant decision-maker to ensure timely decisions for prescribed projects. The Coordinator-General becomes the decision-maker when a step in notice is issued.

<u>Purposes</u>

The purposes currently focus on identifying projects of significance and facilitating timely undertaking of prescribed projects.

<u>Notice to decide</u>

A written notice to decide (section 76J) is used to ensure timely decision-making by requiring a decision-maker to make a decision within a stated period. It directs the decision-maker to make a decision within 20 business days after the notice is given or the statutory time frame (whichever is less). The experience with the notice to decide is that there is ambiguity about whether a decision-maker can extend the Coordinator-General's stated period (e.g. where the decision-maker has an ability under their legislation to extend decision-making timeframes).

<u>Step in notice</u>

A step in notice (sections 76K and 76L) enables the Coordinator-General to be the decision-maker for a particular decision. The Coordinator-General's decision cannot be appealed (e.g. to the Planning and Environment Court). Ministerial approval is required to issue a step in notice. Currently, the ability to step in on a decision is limited to considerations of timely decision-making. Timeframes are provided for when a step in notice may be issued, for example, if a decision had already been made, how far after the decision.

Critical infrastructure projects and critical infrastructure easements

Ministerial declaration of a critical infrastructure project enables critical infrastructure easements to be registered on land that is burdened by a relevant public utility easement. They require Ministerial approval and are utilised where a public utility easement could be positioned within the spare capacity of an existing public utility easement. They were introduced in 2006 to deliver parts of the South-East Queensland water grid. The provisions for critical infrastructure easements sit within part 6, division 8. A critical infrastructure project declaration also prevents certain decisions from review under the *Judicial Review Act 1991* (see section 76W).

Proposals

Purposes

The purposes of part 5A (at section 76A) are proposed to be amended to expand the part's objectives. To give effect to policy objectives focussing on promoting and facilitating the progression of projects, new purposes would be focussed on promoting and enabling development in addition to ensuring timeliness (the core of the current part). New purposes including ensuring efficient and effective decision-making and prioritising projects of particular significance have been included, which are implemented through existing and new powers. Amending the purposes was necessary to give proper effect to the amendments to the step in power and to address the new powers for State strategic projects.

Notice to decide

To ensure the notice can deliver timely approvals, amendments will clarify that the Coordinator-General's timeframe in the notice to decide, will not be able to be extended by a decision-maker. This has been achieved by amending the definition of decision-making period in section 76D of part 5A.

Step in notice

Amending the step in provisions for prescribed decisions would allow the Coordinator-General to intervene without having to first issue a progression notice, notice to decide, or be satisfied that it is required to ensure timely decision-making. Instead, (still with the Minister's approval having first been obtained) the Coordinator-General may only step in if they are satisfied to achieve the purposes of the part, it is necessary and appropriate for the Coordinator-General to become the decision-maker for the decision or process (found at section 76L(1)). This provides for situations where timeliness of a decision-maker may not be the issue at hand, but it would be necessary and appropriate for the Coordinator-General to become the decision-maker for the prescribed decision or process. Timeframes for when a step in notice may be issued have been retained but have been updated to contemporary drafting to provide clarity (found at section 76L(2)).

State strategic projects

Critical infrastructure projects are proposed to be replaced by State strategic projects. An expanded declaration test (at section 76EB) would allow declaration of projects that are a high priority to the State because the project will, or is likely to, significantly contribute to the achievement of the Queensland Government's economic, environmental or social objectives for the State or a region. This is an additional standalone ground for declaration of a State strategic projects in addition to the project being critical or essential to the State for economic, environmental or social reasons, which was the existing criteria for critical infrastructure project declarations.

State strategic projects are intended to be projects of highest significance and greatest priority to the State. They are distinct from prescribed projects, which may be projects of significance as well as other types of projects progressed under the SDPWO Act (such as SDA development or coordinated projects). The policy objective is to make the most substantial facilitation and intervention powers available for this highest class of project. Prescribed projects will continue to be facilitated, with the focus of powers being on ensuring timeliness (through progression notices and notices to decide) as well as allowing to step in by the Coordinator-General.

By comparison, a more expansive suite of powers will be accessible for State strategic projects, exercised by the Minister to resolve regulatory issues or provide tenure solutions, whilst allowing for proper consideration to be given to State interests. This is in addition to the regular set of prescribed project powers, which are also available for State strategic projects (as all State strategic projects are also prescribed projects).

The proposals will also allow for a State strategic project to be declared at a later time after a prescribed project declaration. This resolve an issue in the existing Act whereby declarations about prescribed and critical infrastructure projects must be made simultaneously.

Strategic infrastructure easements

The critical infrastructure easement term is proposed to be replaced with the strategic infrastructure easements. Building on the existing critical infrastructure easement, this mechanism would be expanded to allow registration and transfer of strategic infrastructure easements for purposes other than public utility infrastructure.

Consistent with the existing mechanism, this would reduce impacts to landowners by using spare capacity within existing public utility easements. For example, a proponent for a critical mineral mine which is a State strategic project seeks to connect their mine site to a nearby processing facility using a slurry pipeline and has engaged with an infrastructure provider to identified spare capacity in an existing public utility easement, which could accommodate the slurry pipeline without impacting the utility provider’s operations. With Governor in Council approval, the Minister could register a strategic infrastructure easement within the existing public utility easement in the name of the Coordinator-General, who could then transfer easement to the mine operator. Protections for the existing public utility provider are proposed as part of the design, including that the easement rights of public utility provider would prevail to the extent of any inconsistency with the rights in the new easement. These new provisions are found at section 153A to 153IA of the Bill.

Strategic infrastructure easements would also be available for public utility providers advancing State strategic projects, operating in the same way as critical infrastructure easements.

State significance notices

The State significance notice (new division 3A of part 5A, inserted by clause 22) is a new type of notice modelled on approaches taken in Western Australia. It is only available for use for prescribed projects that are also declared as State strategic projects and would be issued by the SDPWO Act’s Minister. The notice is intended as a mechanism that can ensure decisions are made with a state interest lens whilst still allowing the original decision maker to maintain their decision-making responsibility. For example, where the relevant law provides for bounded considerations, the decision-maker would be able to take into account the updated purposes of part 5A of the SDPWO Act as well as any additional matters set out in the notice, in considering their decision.

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. The notice would apply to decisions of agencies and Ministers. The recipient of the notice must consult with the Minister in considering the decision, and advise the Minister of the decision they intend to make.

The notice does not mandate the decision that must be made. The Western Australian equivalent requires the Minister issuing the notice and the decision-maker (which could include a Minister) to agree on the decision to be made. For the amendments to the SDPWO Act, this was considered an unnecessary intervention and inconsistent with the policy objective to protect decision-maker autonomy where possible. This approach was therefore not adopted; instead, the proposal retains the decision-maker’s autonomy in making the decision.

The notice will ‘stop the clock’ for the relevant decision to ensure there is clarity about what happens to decision-making timeframes. The Minister can set out a time by which the decision-maker must advise of their proposed decision and the time for the decision to be made. These provisions are intended to provide clarity about when certain actions need to take place, to provide adequate time for decision-makers to complete their assessment, and to ensure the relevant decision process isn’t unintentionally delayed.

Considering the importance of the project and the Minister’s direct involvement, an approval decision made subject to a notice will not be able to be appealed. However, appeals will be maintained for the applicant, for example, to seek review of the merits of a condition imposed by the decision-maker. The decision will still be subject to judicial review. The decision of the SDPWO Act’s Minister to issue the notice, and to provide a response to the draft decision are not subject to judicial review under the *Judicial Review Act 1991*. This is to maintain alignment with the existing provisions at section 76W relating to critical infrastructure projects (now State strategic projects). While the provisions will remove the right to judicial review for these two particular decisions under the *Judicial Review Act 1991*, these provisions cannot oust the Supreme Court’s inherent jurisdiction.

Modification order

The modification order (new division 3B of part 5A, inserted by clause 22) is a new power modelled on approaches taken in Western Australia, South Australia and the Northern Territory. The intent is to keep Queensland on an even playing field to other jurisdictions and provide for solutions to unique, project-specific regulatory challenges, while maintaining appropriate checks and balances.

An order would allow the government to respond to duplication or issues with legislation that have a unique interaction with or effect on a project that is of priority to the State, that requires resolution. Examples may include duplicative requirements for impact assessment between different authorisations required for a mining project or multiple rounds of similar public notification for differing authorisations; or to allow a project to be made approvable if the existing framework does not provide for a pathway for its approval – for example, a type of critical minerals refining facility that uses technology that has not been previously used in Queensland and therefore standard regulation of which has not been established.

Whilst issues within the statute book in main shall be dealt with through the standard program of legislative amendment, there is a need for access to a tool that provides the government with responsive flexibility for project-specific issues. This continues the function of the SDPWO Act to provide solutions where none yet exist, such as via the imposed condition power for coordinated projects.

Making of order would be controlled by a set of checks and balances that ensures that it is not misused, avoids unintended effects, and is subject to scrutiny. These are found at section 76RH to 76RN. These restrict when an order can be used, provide limitations on the effects it can have, and provide that it be made by subordinate legislation that is disallowable by Parliament. Consultation is required before recommending to Governor in Council that a modification order be made by regulation. Consultation must occur with the proponent, the responsible Minister for each modified Act and each local body (such as statutory bodies, government owned corporations and local governments) that may be affected by the making of the order.

Conditions could be placed on a modification order to manage various matters, such as any environmental effects. Noncompliance will be an offence and enforcement can be pursued via part 7A of the SDPWO Act. The maximum penalty has been aligned to the maximum penalties for noncompliance with other conditions imposed under the SDPWO Act for control of development impacts.

A modification order would be capable of amendment or repeal (per new section 76RQ). Consultation with relevant entities aligned with the original making of the order would be required unless the matters at section 76RQ(2) apply.

Whilst the concept of the modification order has taken inspiration from other jurisdictions, the design in Queensland has sought to provide sufficient precision to ensure it provides for its intended use and used in targeted situations that meet the thresholds and has a process that is clear and defendable.

State Development Areas

Part 6 of the SDPWO Act relates to Planned Development and contains the State development area (SDA) framework. SDAs are areas of land declared by Governor in Council under section 77 of the SDPWO Act where the public interest or general welfare of persons resident in the state requires it. SDAs are generally used to facilitate economic development and provide for major public works and typically take the form of large industrial areas, linear infrastructure corridors and public works sites. SDAs allow for the Coordinator-General to plan for and regulate development in place of the usual planning and regulatory authority.

The changes in the Bill do not fundamentally alter the SDA framework. With the exception of the new SDA-related development function, the changes in the Bill represent a modernisation of certain SDA processes and also seek to address issues which have been identified since the last major amendment to the SDPWO Act. In drafting the changes to Part 6, consideration has been given to other planning jurisdictions in Queensland, particularly under the Planning Act and *Economic Development Act 2012*, to ensure processes are streamlined and to provide consistency where possible. Certainty and consistency is critical to the SDA framework, to ensure it remains a responsive tool for economic development, major infrastructure projects, and public works activities.

Current framework

Under the current SDA framework, following the declaration of an SDA, the Coordinator-General shall prepare a development scheme for approval by Governor in Council which has the effect of regulating development within the SDA. Development is broadly defined in schedule 2 of the SDPWO Act.

Each approved SDA development scheme:

- identifies development regulated for that SDA, which may include some or all of the land within the SDA boundary, and some or all aspects of development
- identifies whether that development is SDA assessable, which requires approval from the Coordinator-General, or SDA self-assessable development, which must comply with requirements but does not require approval
- includes processes and requirements for making, assessing and deciding development applications (called SDA applications) and requests, which may include processes for public notification and referral to referral entities (such as the local government and state government agencies)
- includes assessment criteria, which SDA applications and requests are considered against, and may include requirements for SDA self-assessable development.

Where development is regulated by an SDA development scheme, other Acts or laws which seek to regulate that development do not apply to the extent they regulate the development (section 84). Section 84 does not displace other Acts or laws entirely, it only limits their regulation of development which is regulated by an SDA development scheme. As a result, in many SDAs the development scheme operates alongside other Acts and laws which regulate other forms of development, including a local government planning scheme under the Planning Act.

Where development is lawfully being carried out prior to an SDA development scheme having effect, section 85 of the SDPWO Act provides that development is not an offence. A person may also apply to the Coordinator-General to undertake prior affected development, defined under schedule 2, which includes certain approved or lawful forms of development that were not being carried out when an SDA development scheme took effect. Compensation may be available under section 87 of the SDPWO Act where a prior affected development request is refused.

SDA assessable development, which requires an approval from the Coordinator-General, is assessed under the relevant development scheme and decided under the provisions of the SDPWO Act. In deciding an SDA application, the Coordinator-General may approve all or part of the SDA application, with or without conditions, or refuse the SDA application. The SDPWO Act does not expressly provide a merits-based review process for decisions on SDA applications, either for the applicant or a third party. This differs from other planning legislation in Queensland, such as the Planning Act, which provides recourse through the Planning and Environment Court in certain circumstances.

The SDPWO Act includes other provisions relating to development assessment within an SDA, including requirements for making an SDA application (including that a fee must be paid) and lapsing provisions for SDA approvals.

Part 6 of the SDPWO Act also includes offence provisions related to development in an SDA, including:

- carrying out SDA assessable development without an SDA approval (section 84A)
- carrying out SDA self-assessable development not in compliance with the requirements for that development (section 84B), and
- contravention of an SDA approval (section 84C).

Within a declared SDA, the SDPWO Act provides that the Coordinator-General may take or otherwise acquire land for certain purposes and with the approval of Governor in Council. The SDPWO Act also provides the Coordinator-General may dispose of land, which is subject to approval by Governor in Council.

Proposals

<u>SDA-related development</u>

The current SDPWO Act provisions only allow for the regulation of development through the SDA development scheme within the boundary of the SDA. Where development is outside of the SDA boundary, the Coordinator-General does not have control over this development. Where this development is for infrastructure necessary to facilitate development in the SDA (such as a trunk infrastructure connection), another entity would regulate this development utilising their assessment process and benchmarks. This could result in delays to the delivery of the infrastructure, changes to its design or route which are inefficient or undesirable, or in the case of a refusal from the regulator an inability to deliver that infrastructure. A decision on this infrastructure connection could also be subject to third party appeals where that jurisdiction allows.

Where development is partially within an SDA and partially outside, the regulatory responsibility is split between the Coordinator-General and the other regulatory authority/s. In these circumstances, the development would undergo separate approval processes with varying requirements and timeframes. This creates uncertainty for project proponents, particularly when some approvals pathways provide for third party appeal processes and some do not. The assessments could also be seen to be piecemeal in nature given each regulator is only considering part of the development.

Clauses 24 and 36 of the Bill establish a process in the SDPWO Act to allow the Coordinator-General to prescribe development outside of an SDA as SDA-related development. The SDA-related development may be identified within an SDA development scheme (section 79A) or otherwise declared by the Coordinator-General (section 85D). The Bill incorporates a test for identifying or declaring the SDA-related development, including that another Act or law that regulates the development may have an adverse effect on the delivery of the development and either the development is:

- for infrastructure for the SDA, to address the impacts of development within the SDA, or
- necessary or desirable to give effect to the purpose of, or objectives for, the SDA as stated within the development scheme, and can not reasonably be located entirely within the SDA.

Where the SDA-related development is declared (section 85D), the Bill provides requirements for consulting with the usual regulator (section 85C) and providing notification of the declaration (section 85F). Where the SDA-related development is identified within an SDA development, the consultation and notification would form part of the overall SDA development scheme preparation process (section 79 and 80).

SDA-related development may be for development that is SDA assessable or SDA self-assessable development. Where the development is SDA self-assessable development, the development must meet the requirements either in the SDA development scheme or in the declaration. Where the development is SDA assessable development, an SDA application under the relevant SDA development scheme would be required. A decision on an SDA application that is for SDA-related development would be decided under the SDPWO Act. The SDPWO Act does not provide for merit-based appeals of decisions on SDA applications, however judicial review remains.

The proposed SDA-related development mechanism has been modelled on a similar concept under the *Economic Development Act 2012*, which allows for the prescription of PDA-associated development outside of the boundary of a declared Priority Development Area.

<u>SDA rules</u>

The SDPWO Act permits SDA development schemes to include processes and requirements for making, assessing and deciding SDA applications and requests. SDA development schemes, and the processes and requirements contained within them, vary according to the intent for the SDA, and the drafting style and issues present at the time the SDA development scheme was drafted. Whilst this allows for each SDA to have tailored assessment processes, it also means that the assessment processes across SDAs are not consistent.

Clause 25 of the Bill establishes the ability for the Coordinator-General to prepare an instrument which includes processes relating to the making, assessing and deciding of SDA applications and requests, which would otherwise be contained within an SDA development scheme. The instrument, called the SDA rules, would require approval from the Minister administering the SDPWO Act and the Governor in Council. The SDA rules would have effect where an SDA development scheme does not prescribe a particular requirement or process. Where an SDA development scheme currently includes these processes, an amendment to that SDA development scheme would be required to remove the processes to allow the SDA rules to have effect.

Effect of approval of SDA development scheme on existing development approvals

Section 85 of the SDPWO Act provides protection from the offence provisions of section 84A and 84B in relation to uses or works lawfully being carried out when an approved development scheme comes into effect. However, with respect to the ongoing regulation of that lawful activity, the authorising legislation may not have effect due to section 84 of the SDPWO Act. As a result, provisions in the authorising legislation such as enforcement and the ability to consider changes to the approval are restricted.

Clause 36 of the Bill provides for the ongoing effect of a relevant law to particular development, use or works following an approved SDA development scheme taking effect. The provision allows for the ongoing effect of the law for that development use or works, including for offence and enforcement provisions. However, clause 36 restricts an application being made under the relevant law that would result in a new or substantially different development, use or works, or an extension of the relevant period for which it may be carried out.

Effect of variation or abrogation of SDA development scheme on SDA applications and approvals

The SDPWO Act does not currently contain provisions to deal with SDA applications and requests that are made but not decided, or SDA approvals which are in effect, when an SDA development scheme ceases to regulate development. This cessation could occur as a result of an abrogation of the development scheme (as part of an SDA revocation) or a variation to an SDA development scheme that results in development no longer being regulated by the SDA development scheme (such as a reduced SDA boundary). This legislative gap results in uncertainty for SDA applications and requests, and critically SDA approvals, where an SDA development scheme ceases regulation. The current situation may also prevent the revocation of an SDA where it is has achieved its purposes or is otherwise no longer required.

Clause 36 includes a range of provisions to deal with the current legislative gap, including:

- the requirement to consider whether the new planning instrument, which will operate instead of the SDA development scheme, appropriately deals with the development no longer regulated by the SDA development scheme
- conversion of SDA approvals to development approvals under the Planning Act, and provisions for how these converted approvals may be dealt with
- dealing with SDA applications and requests which have been made, but undecided
- providing for the ongoing lawful use of premises.

Consideration of the new planning instrument

Where a decision is to be made to cease regulation under an SDA development scheme (such as through a variation or abrogation), the Bill introduces the requirement for the Coordinator-General to consider how the development that will no longer be regulated will be dealt with going forward. The Coordinator-General may only cease regulation of the development where a local planning instrument, an amendment to a local planning instrument, or an interim planning instrument prepared under the SDPWO Act appropriately deals with the development. The provisions do not apply where the underlying land is strategic port land.

Local government planning schemes typically operate in tandem with SDA development schemes, with the former regulating the types of development which the SDA scheme does not. Councils may continue to handle technical or engineering based approvals, such as operational works and may be silent on the matters dealt with by the SDA scheme. There is also the possibility that the local government planning scheme contains outdated provisions for the aspects they do not regulate, such as zonings which do not appropriately reflect the current intended land use for the area as set out in the SDA development scheme. Removing of the SDA scheme in these circumstances requires consideration of the local government planning scheme, to provide certainty to land owners and to ensure the council is appropriately equipped to manage development going forward.

Clause 36 of the Bill provides that where a local government instrument, or an amendment of that instrument, does not adequately deal with the development, an interim planning instrument may be prepared and approved. An interim planning instrument is taken to be temporary local planning instrument made by the relevant local government under the Planning Act. The interim planning instrument tool is intended to be used to assist councils by addressing a legislative gap where the removal of the effect of an SDA development scheme is required as soon as possible.

Conversion of SDA approvals and dealing with converted approvals

The Bill provides that for SDA approvals in effect when an SDA development scheme no longer regulates development, those approvals are taken to be development approvals under the Planning Act. The Bill also provides for how a converted SDA approval may be dealt with, including:

- how conditions of the converted approval may be treated
- who is the enforcement authority for the converted approval
- when the converted approval lapses, and how an extension to the lapse date may be dealt with
- how changes to the converted approval may be dealt with
- other matters relating to the converted approval, including how infrastructure charges and requirements may be dealt with.

The provisions ensure that the SDA approvals continue to have the same or similar rights as they did under the SDPWO Act. This includes protection from appeal rights and the inability for duplicative infrastructure charges to be levied.

Dealing with undecided SDA applications and requests

The Bill provides a process for SDA applications and requests which have been made, but are undecided, at the time an SDA development scheme no longer regulates development. The provisions generally allow the application or request to be finalised as if the SDA development scheme still had effect, with the resulting decision taking effect under the Planning Act.

Ongoing lawful use of premises

The Bill provides that a lawful use of premises prior to an SDA development scheme no longer regulating development, is taken to be a lawful use of premises under the Planning Act. This broad provision provides protection for lawful land uses that are not captured by other provisions and provides certainty for all parties that these land uses are not suddenly unlawful as a result of the change of regulator.

The provisions in Clause 36 have been modelled on a similar framework under the *Economic Development Act 2012*, which provides for dealing with applications and requests, and PDA approvals, where a PDA development scheme is removed from effect. Under the *Economic Development Act 2012*, PDA approvals are converted to development approvals under the Planning Act on revocation of a PDA development scheme.

<u>Fees for SDA applications</u>

The SDPWO Act requires an SDA application to be accompanied by the application fee prescribed by regulation. The Coordinator-General must not accept an application that does not comply with this provision. The SDPWO Act does not explicitly permit the Coordinator-General to accept an SDA application as properly made where it includes less than the regulated fee. Fee waivers are relied upon to provide equitable treatment for applicants, including where a regulated fee is disproportionate to the development being applied for in the SDA application, or where the applicant is a registered charity.

Clause 30 of the Bill amends section 84D to permit the Coordinator-General to waive all or part of the application fee for an SDA application by written notice to the applicant. Clause 218 of the Bill provides SDA applications, and any resulting SDA approvals, that were made without the full fee being paid, are not invalid as a result of the full fee not being paid. As a result, clause 30 operates with retrospective effect but is a beneficial provision for applicants of SDA applications which have previously been made.

<u>Currency periods and lapsing of SDA approvals</u>

Part 6 of the SDPWO Act details how the currency period of an SDA approval may be calculated and when an SDA approval is taken to have lapsed. The current provisions are not aligned with other Queensland planning jurisdictions, including the default currency period lengths and the language of when an SDA approval is considered to have taken effect.

Clause 34 of the Bill updates the language for when an SDA approval for a material change of use takes effect to remove reference to it substantially starting. This language has proven to problematic in practice, and the Clause 34 provisions bring the SDPWO Act into line with other jurisdictions in Queensland. With respect to default currency periods, the Bill extends the default currency period for a material change of use from 4 years to 6 years. This change provides proponents additional time to seek secondary approvals, such as for operational works, without the primary SDA approval lapsing. The Coordinator-General retains the ability to set a different currency period to the default period in the SDPWO Act. A further change to currency periods and lapsing in the Bill ensures that SDA approvals to not lapse where a request has been made to the Coordinator-General to extend the period, until such time as the Coordinator-General has made a decision on the extension request.

Conditioning

Section 84E of the SDPWO Act provides a broad head of power for the Coordinator-General to impose conditions on an SDA approval, where these conditions are relevant to, but not an unreasonable imposition on, or are reasonably required in relation to the development. Clause 32 of the Bill clarifies the power to impose SDA approval conditions for infrastructure charges and environmental offset matters.

Infrastructure charges

The Coordinator-General undertakes land use and infrastructure planning for SDAs to provide for the orderly and efficient development of these areas. The Coordinator-General works with infrastructure providers, including state agencies, local governments, and water and energy providers to plan for new and augmented infrastructure to support development in an SDA. However, the current provisions in the SDPWO Act do not clearly outline how charges for infrastructure may be levied on a development. SDA development schemes operate in tandem with other planning instruments, including local government planning schemes under the Planning Act. Currently, where an infrastructure charge is levied under an SDA approval, a separate charge could also be levied under an approval issued for the same overall development under the Planning Act.

In relation to infrastructure charges, clause 32 of the Bill provides that:

- a condition imposed on an SDA approval may require the payment of charges to contribute to the costs of infrastructure for the SDA
- an infrastructure charges condition may apply in relation to infrastructure whether or not the Coordinator-General is responsible for the infrastructure, and may require the charges to paid to the other entity responsible for the infrastructure
- where an infrastructure charges condition is imposed, no other charges under the Planning Act may be imposed for the development, or development that is a natural and ordinary consequence of the development or is otherwise associated with the development.

The changes are intended to clarify how infrastructure charges may be levied with respect to conditions of an SDA approval, allow payments to made directly to infrastructure providers, and provide certainty to proponents that the same or similar charges under other legislation will not be levied at later stages of development.

Environmental offsets

The Coordinator-General has broad powers to impose conditions on SDA approvals, which may include conditions requiring an offset to counterbalance a development's impacts on the environment. Currently, the *Environmental Offsets Act 2014* does not refer to the SDPWO Act for the purposes of SDA approvals. Whilst this arrangement does not prevent the Coordinator-General from imposing a condition requiring an offset on an SDA approval, the delivery of an offset conditioned by the Coordinator-General cannot be dealt with under the *Environmental Offsets Act 2014*. This means that the Coordinator-General must establish a separate framework for delivering the offset, which for financial offsets includes the levying, collection and distribution of funds collected. The current arrangement also does not provide a mechanism to deal with duplicate offset conditions.

In relation to environmental offsets, clause 32 of the Bill provides that a condition under section 84E may require or otherwise relate to an environmental offset. Clauses 62-64 of the Bill amends the Environmental Offsets Regulation 2014 to include development carried out under an SDA approval as an activity prescribed for section 9(c) of the Environmental

Offsets Act 2014. The intent of the change is to allow the delivery of an offset conditioned as part of an SDA approval to be handled using the processes available within the *Environmental Offsets Act 2014*.

Disposal of land

Section 83 of the SDPWO Act provides the requirements and circumstances where the Coordinator-General may dispose of land within an SDA. Under section 83, the Coordinator-General must obtain approval from Governor in Council to dispose of land held in an SDA, regardless of the purpose for which disposal is sought, unless the disposal is for a lease term of 4 years or less. This requirement applies regardless of how the land was originally acquired, either commercially or via compulsory acquisition. The current provisions also prevent the Coordinator-General from disposing land if not for implementing the SDA development scheme, even with the approval of Governor in Council.

Clause 26 of the Bill limits the application of section 83 to land held by the Coordinator-General if the land were taken or acquired under section 82, which relates to the acquisition of land in an SDA. The intent of the change is to permit the Coordinator-General to be able to commercially purchase and sell land within an SDA, as can be done outside of an SDA. However, where that land is acquired under section 82, the Coordinator-General is subject to the restrictions under section 83.

Clause 26 of the Bill also permits the Coordinator-General to dispose of land for the purposes of implementing the approved SDA development scheme, without obtaining Governor in Council approval. The removal of the requirement to seek Governor in Council approval to dispose of land in these circumstances, would allow the Coordinator-General to more efficiently develop SDAs and support industrial development. The removal of the requirement to obtain Governor in Council approval would be contingent on the disposal being for the purposes of implementing the SDA development scheme. The purposes for which land can be acquired under section 82 and the approval requirements to acquire the land are unaffected by these changes.

Acquisition of land for State strategic projects

Current framework

Part 6 of the SDPWO Act also currently contains division 7 – Infrastructure facilities. ‘Infrastructure facilities’ are defined in schedule 2 of the SDPWO Act, being a certain type of development dealing generally with infrastructure rather than primary uses or activities. For example a ‘development’ might be a refinery, but only the component of that refinery which stores minerals could be an infrastructure facility.

Part 6, division 7 allows for application for and grant of investigator’s authorities, which allows a proponent to access land to investigate the land’s suitability for development of an infrastructure facility. Further dealings with this mechanism are dealt with below, under the heading Access authorities.

Part 6, division 7 also provides for ‘private infrastructure facilities’ (PIF). A proponent for a project which is an infrastructure facility may apply to the Coordinator-General for approval as a PIF (SDPWO Act section 153AA). If a project is approved as a PIF, the Coordinator-General may compulsorily acquire land for the facility and transfer it to the proponent by way of section 125 of the SDPWO Act, generally following the process under the Acquisition of Land Act 1967 in respect of notice, objections and compensation.

The power to take land for a PIF is a power of last resort; it is only available where good faith negotiations to acquire or use the land have been undertaken and have not succeeded.

The PIF framework was established in 2012 following reform of the older ‘infrastructure facility of significance’ function, which operated somewhat similarly. In the time since the reform, the PIF mechanism has not been used. In part, this is attributed to the very high bar for standing to make an application for PIF approval per section 153AA, including the need to have completed an EIS, and the limited class of projects that fall fully within the definition of ‘infrastructure facility’.

Proposals

The Bill proposes reform of the private land acquisition powers. The Coordinator-General’s power to compulsorily acquire land and transfer it to a private person would generally be maintained. However, instead of there being a separate PIF project designation (in addition to the others under e.g. part 4 and part 5A), compulsory acquisition would become a function available to be exercised for State strategic projects.

The effect would be that, if the Minister has declared a project to be a State strategic project, the proponent of that project would be able to make an application under section 144 as amended by clause 39 of the Bill for the Coordinator-General's endorsement of the project as a purpose for taking of land. The application fee amount has been carried over from the existing PIF application process. This alters the accessibility of the mechanism; rather than the proponent of any infrastructure facility project having prima facie standing to make an application (completed EIS prerequisite notwithstanding), only proponents of State strategic projects can apply. However, any type of project may be a State strategic project, and so acquisition becomes available to a wider class of activities than under PIFs.

The PIF framework contains a variety of process requirements and protections for landholders. These are generally retained, or improved, under the proposed amendments. Amended section 144 would require the applicant to provide certain information about their capability to undertake the project; this ensures applications for endorsement will only progress where the proponent is genuine and can carry out the project in a reasonable timeframe. The applicant must also evidence their negotiations with the landholder, demonstrating at least six months of genuine efforts to negotiate purchase, and if relevant, efforts to enter into an indigenous land use agreement.

Amended section 145 would require the Coordinator-General to consult with the rights-holder for the land, which serves to advise of the application and cross-reference the applicant's statements about their efforts to negotiate. If the Coordinator-General is satisfied of the various criteria described at amended section 146, then they could endorse the application. To endorse the application, the Coordinator-General must also be satisfied that it is in the interests of the State that the land be taken to facilitate the delivery of the project. The Minister must also themselves be satisfied of that criterion at successive steps in the process (as per amended sections 143(2)(c)).

Once the application has been endorsed, amended section 152 would require the applicant to make a final unconditional offer of purchase for the land, a requirement maintained from the PIF framework. If the final offer is unsuccessful, the Minister may (subject to their own satisfaction of the criteria set out at amended section 143(2)) recommend to the Governor in Council that a regulation be made, declaring the State strategic project to be a purpose for which the Coordinator-General make take land under section 125 of the SDPWO Act.

Upon the regulation being made, the Coordinator-General may initiate the process of land acquisition under section 125, following the steps under the Acquisition of Land Act 1967. However, for the avoidance of doubt, the Coordinator-General is not required to acquire the land once the regulation is made. For example, if a negotiated outcome is reached prior to the taking, the Coordinator-General is not compelled to take the land regardless. The Coordinator-General must also again be satisfied that the taking of the land is in the interest of the State to facilitate the delivery of the project at the time of the taking.

Access authorities

Current framework

As briefly mentioned above, part 6, division 7 also included a mechanism allowing proponents of infrastructure facilities to investigate land for the purpose of investigating its suitability to be developed for the infrastructure facility.

The proponent of the facility may apply to the Coordinator-General for an investigator's authority if attempts to negotiate access to the land have failed. The Coordinator-General may grant that authority, subject to conditions. The authority allows for access to the relevant land to investigate its suitability, and may authorise undertaking certain facilitative activities to that end such as making of access tracks and placement of surveying equipment.

The authority holder must take various steps to safeguard the interests of the landowner, including giving notice, rectifying damage and paying compensation for damage caused as part of activities authorised under the authority.

Proposals

The Bill proposes to remove the private infrastructure facility framework from the SDPWO Act, given reallocation of its functional aspects to part 5A necessitates. Creation of new part 6A achieves a similar objective for the land access framework.

Part 6A effectively preserves the functional aspects of the investigator's authority, but reorients its objectives in the context of prescribed and State strategic projects. The policy driver is to ensure that proponents of projects that the Minister has identified as significant to the state can access land as necessary to support progression of those projects.

The proposed access authority regime has two effective ‘limbs’. The first is the general access authority, which can be granted to the proponent for a prescribed project. The second relates only to State strategic projects, which may be authorised to carry out certain enabling works under their access authority subject to the approval of the Governor in Council.

<u>Access</u>

A prescribed project proponent would be eligible to apply to the Coordinator-General for an access authority under new section 76HA (inserted by clause 18) and section 153M (inserted by clause 46). The application would be able to be made about land proposed to be subject of the development itself, or land which impacts on the development of the project. This is a different formulation to investigator’s authorities, which only provide for access to the land subject of the proposed infrastructure facility.

The proposed ability to access impacted land will allow for access to non-project land to make investigations relating to the project. For example, a proponent may require access to a neighbouring property to install temporary groundwater monitoring bores and undertake surface water quality sampling to inform the design of project water management systems and address matters for environmental impact assessments.

Similar requirements as for investigator’s authorities will apply. The Coordinator-General will engage with the landholder on the making of an application to evaluate the applicant’s statements regarding negotiation. The access authority may be granted subject to conditions, which may include the lodgement of a security deposit or bond with the Coordinator-General. The security deposit or bond may be discharged to pay for rectification of damage or payment of compensation to which the landholder would be entitled to under new section 153Y.

The access authority may authorise undertaking of certain activities to facilitate the principal purpose of the authority; for example, it may authorise establishment of a temporary track to gain access to a surveying site. However, if the activity would require some other approval or permission to carry out, the allowing of that activity by the access authority does not remove the requirement to obtain that approval or permission. For example, if clearing for the access track would be assessable development under the Planning Act, then the grant of the access authority does not negate the requirement to also obtain a development permit to undertake the clearing.

The application fee amount and the offences from the existing investigator authority mechanism have been retained for access authorities.

<u>Enabling works</u>

A proponent of a State strategic project may apply to the Coordinator-General for an access authority involving the undertaking of enabling works by way of new section 76HB (inserted by clause 18) and section 153M (inserted by clause 46). This reflects the policy intent that State strategic projects should be enabled as far as possible given their high significance to the State.

A definition of ‘enabling works’ would be inserted in the SDPWO Act’s dictionary schedule by clause 58. Read with new section 76HB, they are works of a minor and temporary nature that are ancillary to the State strategic project or a part of that project, but are necessary to enable the project or the part of the project to be undertaken.

For example, large linear infrastructure projects built in concurrent segments often require the construction of temporary access roads to access various parts of the infrastructure corridor in the establishment stage of the project. Distinct from temporary tracks to facilitate investigations as described above, these roads form a key enabling portion of the project in its early construction phase. They would allow vehicles, plant and personnel to access the corridor at various points along its alignment to establish the main access and construct the traversal road within the corridor. Upon the main access being constructed and corridor traversal road being completed, the temporary access roads can be decommissioned as they are no longer required. An access authority for a State strategic project may provide for this scenario.

An access authority could only provide for undertaking of enabling works if approved by the Governor in Council pursuant to new section 153Q. As part of an access authority, the same rules regarding conditioning, giving of notice, rectification and compensation would apply to the enabling works portion as to the rest of the authority.

Enforcement

Current framework

Part 7A of the SDPWO Act contains provisions relating to enforcement and general offences. The current provisions allow for the giving of an enforcement notice and enforcement order relating to an enforceable condition listed under section 157A. Enforceable conditions include, but are not limited to, conditions and requirements given or imposed by the Coordinator-General under various parts of the SDPWO Act. In relation to SDAs, a condition of an SDA approval and a requirement stated in an approved development scheme for carrying out SDA self-assessable development are both enforceable conditions. Undertaking SDA assessable development without an SDA approval is not included as an enforceable condition, so an enforcement notice or enforcement order are not currently able to be made.

Where a person does not comply with an enforceable condition, section 157B allows the Coordinator-General to give an enforcement notice which may, amongst other things, require the person to comply with the condition. Section 157I allows the Coordinator-General to start a proceeding in the Planning and Environment Court for an enforcement order to remedy the matter. The provisions in Part 7A are in addition to penalty offences which are otherwise provided for in the SDPWO Act. In relation to SDAs, contravention of an SDA approval or not complying with requirements for SDA self-assessable development both carry a maximum penalty of 1,665 penalty units under section 84C and 84B respectively.

The SDPWO Act also does not contain specific property entry powers, to investigate alleged breaches of enforceable conditions. This significantly limits the ability of the Coordinator-General to identify and remedy development offences which have the potential to cause serious harm to the community and the environment.

The changes in the Bill relating to Part 7A have been modelled on similar provisions which exist within the Planning Act (particularly chapter 5, parts 6-9) for alleged offences under that legislation. Consideration has also been given to other jurisdictions who regulate activities and development, including under the EP Act and *Fisheries Act 1994*. The Bill provisions are intended to carefully balance a person’s rights which may be affected by the new powers (such as entry onto land and the seizure of property), with the broader community’s rights and expectations to be protected from adverse impacts of unlawful development. A robust and efficient enforcement system is critical to ensure that where activities are authorised by the Coordinator-General they are carried out lawfully and in accordance with the requirements set by the Coordinator-General.

Proposals

<u>Unlawful development</u>

The Bill proposes changes to Part 7A to allow the enforcement provisions to be utilised for proponents carrying out SDA assessable development without an SDA approval. This change addresses a gap in the current SDPWO Act, whereby the only remedy for a person carrying out SDA assessable development without an SDA approval, is through the penalty offence under section 84A. As a result of the change, several provisions in Part 7A would refer to an enforceable condition, or a contravention of section 84A. This change will also permit new entry and investigative powers to be utilised for alleged contraventions of section 84A.

<u>Entry and investigative powers</u>

Clause 47 of the Bill proposes a range of new powers to permit the proper investigation of alleged breaches of enforceable conditions, as set out in section 157A, or a breach of section 84A, carrying out SDA assessable development without SDA approval. The provisions include:

- the appointment of authorised officers by the Coordinator-General to carry out certain functions under Part 7A of the SDPWO Act (section 157AB-157AE)
- entry of land by an authorised officer, with the consent of the occupier (section 157AG-157AH)
- application for warrant and entry of land by an authorised officer, under warrant (section 157AI-157AN)
- powers after entry of land, including powers to inspect/examine the place or things at the place, and to require reasonable help in the exercise of investigative powers (section 157AO-157AQ).

Seizure and dealing with evidence

Clause 47 of the Bill also permits an authorised officer to seize a thing where an authorised officer reasonably believes the thing is evidence of an offence against the SDPWO Act. The provisions also include requirements for security, receipt, access and return of the seized thing. The Bill also provides for disposal and forfeiture of the seized thing in certain circumstances.

Remedy contravention of enforcement notice

Clause 51 of the Bill proposes a new power for an authorised officer to remedy the contravention of an enforcement notice, where that notice requires a person to take a particular action.

Cost recovery

Part 8 of the SDPWO Act contains provisions relating to a range of matters including specific powers and functions of the Coordinator-General such as the power to enter into contracts; legal liability of the Coordinator-General; facilitation of execution of the SDPWO Act; and other miscellaneous provisions.

Current framework

The SDPWO Act provides a range of powers to the Coordinator-General to recover the reasonable costs of obtaining advice or services necessary to carry out functions of the Coordinator-General, including the power to negotiate and enter into contracts (section 158). However, these provisions do not cover all services provided by the Coordinator-General and there is ambiguity in the existing contracting provision.

Proposals

The Coordinator-General receives requests from public and private proponents to carry out functions under the SDPWO Act to assist those proponents. The Coordinator-General is required to deploy resources to deliver the functions, usually to meet expedited project delivery timeframes. In addition, the Coordinator-General can take land for projects on behalf of both government and private projects. The Coordinator-General as the constructing authority is liable to pay compensation to interest holders in accordance with the Acquisition of Land Act 1967. Where this occurs, the Coordinator-General's practice is to enter a voluntary cost recovery agreement with the proponent prior to any exercise of a function or compulsory acquisition of land. However, despite the various cost recovery provisions in the SDPWO Act, the ability to expressly recover these costs are not clear, with the amendments to provide the clarity required.

Section 158 proposes to make clear that the voluntary contracts the Coordinator-General can enter into for the performance of the Coordinator-General's functions or the exercise of the Coordinator-General's powers, includes the ability to recover costs incurred by the Coordinator-General or a cooperating person (another government department assisting the Coordinator-General). The power is clarified that it cannot recover costs already recovered, for example, where the Coordinator-General has already received fees to carry out an environmental impact assessment.

Other legislation

State Development and Public Works Organisation Regulation 2020

The Bill proposes to amend schedules of the SDPWO Regulation dealing with fees. The fees for investigator's authority applications and private infrastructure facility approval applications made under part 6, division 7 are proposed to be replaced with fees for access authority applications and acquisition of land purpose endorsement applications.

The fees from the 'former' mechanism have been translated to the 'new' mechanism, e.g. the fee prescribed for access authority applications is the same value as that for investigator authority applications, and the fee prescribed for applications for endorsement of a project as a purpose for taking land is the same value as that for an application for PIF approval. This reflects that the nature and extent of effort to consider these types of applications remains the same. To deal with any inconsistencies, the amendments would allow the Coordinator-General to waive all or part of fees as necessary to reflect Government policy that application fees should be fixed to only recover service costs.

Environmental Offsets Regulation 2014

Clause 62-64 of the Bill proposes changes to the Environmental Offset Regulation 2014 to include development carried out under an SDA approval under the SDPWO Act as an activity prescribed for section (9(c) of the Planning Act 2016. The addition of this item in the Regulation will allow a condition of an SDA relating to environmental offsets, to be dealt with under the provisions of the Environmental Offsets Act 2014. This change aligns with proposed conditioning power under clause 32 of the Bill.

Other amendments

Clause 64 of the Bill proposes a series of other, minor amendments to various Acts. For the LGE Act, the Bill would remove reference to prescribed development, as that term is no longer used; however, the operation of the relevant system (prevention of prohibited policy donations) remains intact due to the alignment of part 5 with the modern Planning Act system of development assessment.

Changes to the Planning Act and PEC Act focus on providing navigational aids to users of those Acts by pointing to areas of the SDPWO Act that would impact on functions under those Acts in respect of SDAs.

Minor amendments to the SDPWO Act would provide for navigational aids through notes, make editorial or corrective changes, and replace references to critical infrastructure projects with State strategic projects.

Proposed changes to the SPD Act and TI Act update outdated language.

CONSULTATION

Consultation occurred with state government departments, peak bodies and government owned corporations. Government departments were provided briefings, reviews of the draft Bill, one on one meetings and responses to individual queries. Feedback was largely incorporated into the Bill. Government departments included:

- Department of the Premier and Cabinet
- Queensland Treasury
- Department of State Development, Infrastructure and Planning (Planning Group)
- Department of Transport and Main Roads
- Department of Justice and Attorney-General
- Department of Local Government, Water and Volunteers
- Department of Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism
- Department of Primary Industries
- Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development (including Critical Minerals Qld)
- Department of the Environment, Tourism, Science and Innovation.

Peak bodies and government owned corporations were provided briefings and a draft of select parts of the Bill, namely those parts that included significant new powers or had particular relevance to their business. These groups were generally supportive of the policy intents of the amendments. The 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.