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

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SUBMISSION TO THE QUEENSLAND GOVERNMENT

Primary Industries and Resources Committee

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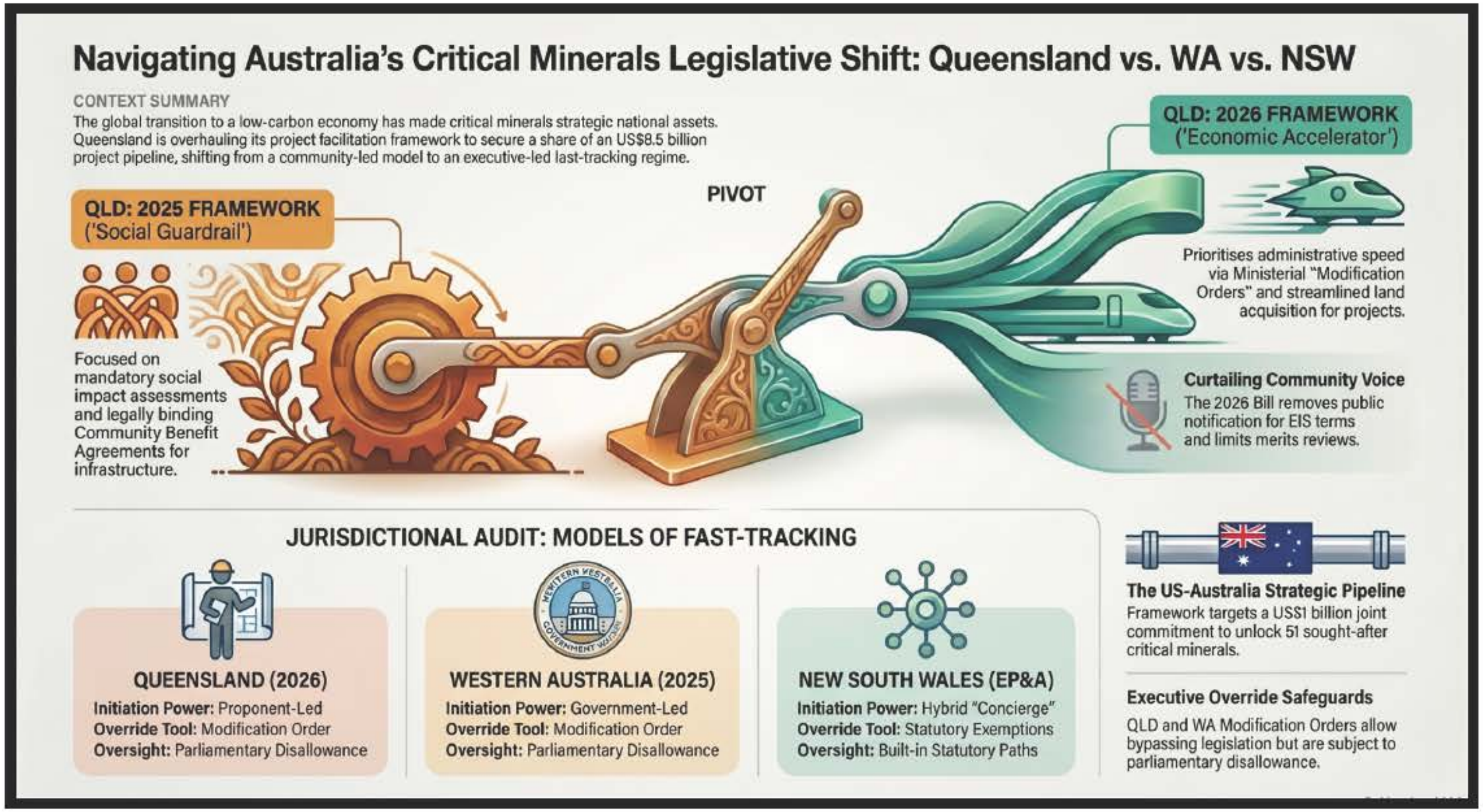
Submission regarding the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026



This graphic highlights the remarkable PIVOT from the 2025 Community Benefit Agreements for Renewable Energy to a 'Proponent Led' Approach for Critical Minerals

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1. Introduction

The global shift toward a low-carbon economy has redefined critical minerals as strategic assets, sparking fierce geopolitical competition for supply chain security. Capitalising on the US-Australia critical minerals framework - buttressed by a US$1 billion joint fund to catalyze an US$8.5 billion project pipeline - Queensland is moving to capture substantial investment via its deposits of 51 highly coveted minerals. To secure this advantage, the government has introduced the *State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026*, marking the most significant restructuring of the state's facilitation regime in over a decade.

While attracting international capital remains a priority, this submission contends that the accelerated delivery of projects must not occur at the expense of environmental integrity or established principles of public participation. To provide a rigorous evaluation of the proposed legislation, this report is organis ed as follows:

- **Part 2: The Shift in Community Engagement,** which analyzes the structural departure from the localis ed benefit mandate of the *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025* toward an executive-led fast-tracking framework.
- **Part 3: Key Issues at Stake,** which evaluates critical administrative tools within the Bill, including the centralisation of power via "Henry VIII" clauses, overhauled land acquisition mechanisms, and environmental deregulation.
- **Part 4: Jurisdictional Comparison,** which benchmarks the Queensland model against the legal frameworks recently implemented in Western Australia and New South Wales.
- **Part 5: Questions Warranting Scrutiny,** which identifies vital areas for legislative inquiry by the Primary Industries and Resources Committee regarding the necessity and safety of these reforms.
- **Part 6: Conclusion**
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2. Shift in Community Engagement: 2025 Social Impact Bill vs. 2026 Critical Minerals Bill

A comparative analysis reveals a structural departure in the government's approach to community engagement and the mandate for localised benefit.

The 2025 Framework (Focus on Social Impact and Local Benefit): The *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025* sought to embed public participation within the core of the application cycle. Proponents were required to draft "social impact assessment reports" evaluating consequences for community livelihoods, services, and general wellbeing. Crucially, the regime introduced formal **Community Benefit Agreements**, requiring developers to provide tangible offsets - such as funding local infrastructure or training programs - to compensate for the social disruptions inherent in large-scale resource developments.

The 2026 Framework (Focus on Fast-Tracking and Executive Override): Conversely, the 2026 framework prioritises administrative speed by curtailing community consultation. Under the new **Modification Orders**, which can modify primary state legislation, **the Minister is required only to engage with proponents and specific government bodies**. The broader community is excluded from this executive consultation process. Furthermore, the 2026 reforms actively erode established participation rights by:

- **Removing public notification requirements** for draft Environmental Impact Statement (EIS) terms of reference.
- **Exempting decisions** governed by a State Significance Notice (SSN) or Infrastructure Coordination Plan (ICP) from merits review in the Planning and Environment Court.
- **Eliminating independent public interest evaluations** for pit voids within Progressive Rehabilitation and Closure Plans (PRCPs), allowing these non-use areas to be approved through proponent self-assessment.

3. Other Key Issues at Stake

Executive Power and "Henry VIII" Clauses The implementation of Modification Orders serves as a powerful administrative tool, enabling subordinate regulation to modify or exclude primary Acts of Parliament. While these orders remain subject to parliamentary disallowance and cannot override "key authorisations" like cultural heritage plans, they represent a significant centralisation of executive power designed to bypass unforeseen regulatory duplication.

Land Access and Compulsory Acquisition The 2026 Bill overhauls land tenure by replacing the PIF framework with a streamlined compulsory land acquisition mechanism for State Strategic Projects. It introduces **Strategic Infrastructure Easements**, allowing linear infrastructure to be registered over existing utility corridors, and establishes **Access Authorities** that authorise proponents to enter private land without owner consent to conduct geological or environmental investigations.

Environmental Deregulation Parallel reforms transition lower-risk resource activities to standardised ERA codes, **removing financial surety requirements** for these operations. Additionally, extending the reporting cycle for Underground Water Impact Reports (UWIRs) from three to five years raises concerns regarding the delayed detection of critical impacts on farming aquifers.

4. Jurisdictional Comparison: Queensland vs. WA vs. NSW

Project Initiation: Proponent-Led vs. Government-Led

- **Queensland (Proponent-Led):** This model allows private developers to actively trigger fast-tracking mechanisms and access land entry powers by applying directly for SSP or Coordinated Project status.
- **Western Australia (Government-Led):** Under the *State Development Act 2025*, the power to identify and designate Priority Projects resides entirely with the Minister and Coordinator General, limiting the utility for proponents awaiting government action.
- **New South Wales (Concierge-Led):** NSW utilises a hybrid model where the Investment Delivery Authority acts as a "single front door," coordinating up to 22 agencies for private projects that meet high capital thresholds.

Executive Override Tools

- **Queensland and WA:** Both jurisdictions utilise Modification Orders as subordinate regulations to alter primary Acts, subject to parliamentary tabling and disallowance.
- **New South Wales:** Statutory exemptions are incorporated directly into the *Environmental Planning and Assessment Act 1979*. Once approved as SSI, other environmental permits are automatically declared "not required" by statute, bypassing parliamentary disallowance processes.

5. Questions Warranting Additional Legislative Scrutiny

The transition from the 2025 framework to the 2026 Bill necessitates rigorous inquiry into the following areas of concern:

1. **Abandonment of Community Benefit:** Why has the government replaced the formalised community compensation model of 2025 with a regime that limits consultation on Modification Orders solely to proponents and select executive bodies?
2. **Justification of the Proponent-Led Model:** Why does Queensland permit private developers to unilaterally initiate processes granting them non-consensual land entry, whereas WA reserves these powers strictly for government-led strategic alignment?
3. **Safeguards Against Henry VIII Clauses:** Are the safeguards for Modification Orders robust enough to protect democratic oversight, or does this reliance on subordinate regulations create unacceptable regulatory uncertainty compared to the NSW model?
4. **Erosion of Public Consultation on EIS:** Historical data shows public notification resulted in modifications to EIS terms of reference in 100% of cases. How can the government justify removing a step that has universally addressed deficiencies in project assessments?
5. **Groundwater and Agricultural Protection:** How will the government ensure rapid responses to contamination or depletion if the reporting cycle for UWIRs is

nearly doubled, potentially delaying the detection of critical impacts on farming aquifers?

6. **Removal of Independent Public Interest Evaluations:** By substituting impartial evaluations with proponent self-assessments for non-rehabilitated pit voids, how will the state assure regional stakeholders that groundwater-draining voids are properly scrutinised?
7. **Removal of Financial Sureties:** Given the historical taxpayer burden of abandoned mines, what is the justification for transferring the financial risk of small-scale mining operations back to the public by removing bonding requirements?

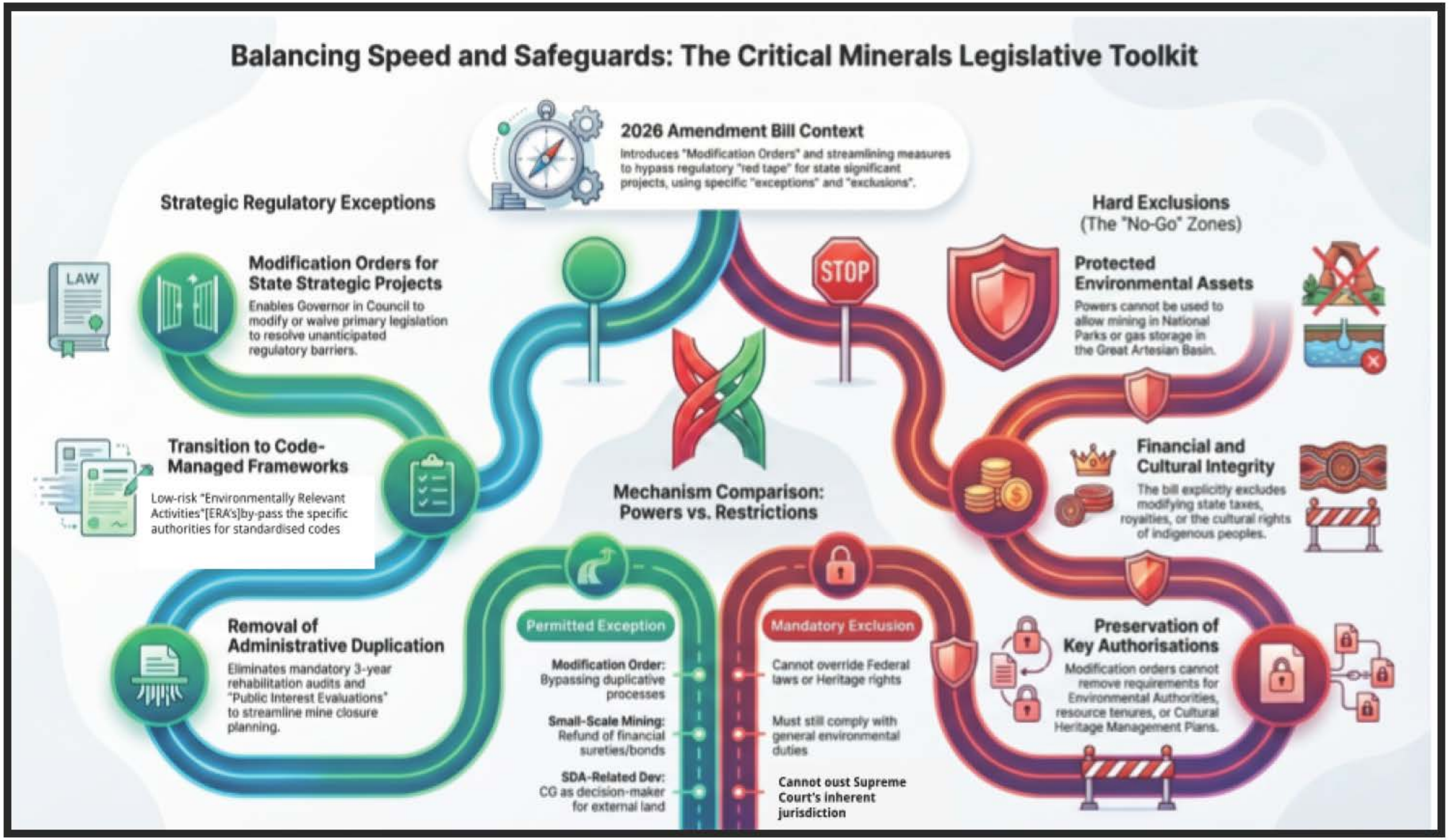
6. Conclusion

The drive to capitalise on the critical minerals boom must be balanced against property rights and sustainable governance. The transition from the 2025 Bill's focus on binding Community Benefit Agreements to the 2026 Bill's reliance on executive override tools represents a profound reduction in the community voice.

While Queensland, Western Australia (WA), and New South Wales (NSW) have all moved toward centralised fast-tracking, a comparative jurisdictional audit reveals distinct differences in the Queensland approach:

- **Proponent-Led vs. Government-Led Initiation:** *Queensland utilises a heavily proponent-led model, allowing private developers to trigger fast-tracking and land entry powers directly.* In contrast, the WA framework is strictly government-led, reserving designation entirely for the Minister. NSW utilises a hybrid "concierge" model where the Investment Delivery Authority coordinates projects meeting high capital thresholds.
- **Subordinate vs. Primary Executive Overrides:** Queensland and WA rely on "Henry VIII" Modification Orders - subordinate regulations that can alter primary Acts subject to disallowance. NSW integrates exemptions directly into its primary planning statute (the *Environmental Planning and Assessment Act 1979*), automatically bypassing other permit requirements once a project is approved.
- **Inter-Agency Deadlocks:** To mitigate delays, *Queensland grants the Coordinator-General "Step-In" and "Notice to Decide" powers*. WA lacks these step-in functions, relying on the Premier to resolve disputes, while NSW utilises centralised super-agencies like the IDA to mandate agency action.
- **Erosion of Merits Review:** All three states are curtailing public participation rights. Queensland uses State Significance Notices to exempt decisions from merits appeals; WA provides no right of appeal for priority projects; and NSW allows the Minister to extinguish appeal rights by directing public hearings.

Ultimately, the 2026 Bill gives private developers unprecedented executive tools and land access. Addressing the concerns raised in this submission is vital to ensuring that administrative efficiency does not undermine local community rights and sustainable governance. The shift between the provisions introduced for public benefit agreements for renewable energy [in 2025] and the unprecedented powers for private miners of critical minerals appears to warrant critical analysis to ensure the State is taking a balanced approach to divergent forms of mining and development.



This graphic highlights the Strategic Regulatory Exceptions on the Left [in Green] and the Hard Exclusions on the Right [in Red]

7. Attachment A: FROM ‘a mandate for localised benefit’ TO a ‘system governed by executive-led fast-tracking’

Introduction

The evolution from the *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Bill 2025* to the current *State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026* signals a structural departure in the Queensland Government’s engagement strategy. While the former sought to embed public participation within the planning process, the 2026 reforms prioritis e administrative speed by curtailing community consultation and third-party rights for strategic resource assets.

A comparative analysis of the community engagement frameworks under these two legislative regimes reveals a transition from a mandate for localised benefit to a system governed by executive-led fast-tracking.

Notification Requirements and Public Consultation

- **The 2025 Bill (Social Impact Framework):** This legislation mandated that project proponents consult extensively with the public during the drafting of "social impact assessment reports." These assessments were designed to evaluate consequences for local values, services, and the general wellbeing of the community.
- **The 2026 Bill (Fast-Tracking Framework):** The proposed reforms streamline approvals by removing public notification requirements for draft Environmental Impact Statement (EIS) terms of reference. Additionally, projects designated as SDA-related or those governed by interim planning instruments are exempt from standard notification and consultation duties.

Community Benefit Agreements vs. Ministerial Overrides

- **The 2025 Bill:** This regime introduced formal **Community Benefit Agreements**, requiring developers to provide tangible offsets for social impacts. These legally binding commitments focused on funding local infrastructure, such as libraries or sports facilities, and supporting regional training programs.
- **The 2026 Bill:** The 2026 framework replaces bilateral agreements with executive tools such as **Modification Orders** and **State Significance Notices**. When a Modification Order is used to alter primary legislation, the Minister is required only to engage with the proponent and specific government bodies. **The broader community is excluded from this executive consultation process**.

Affected Persons and Infrastructure Coordination

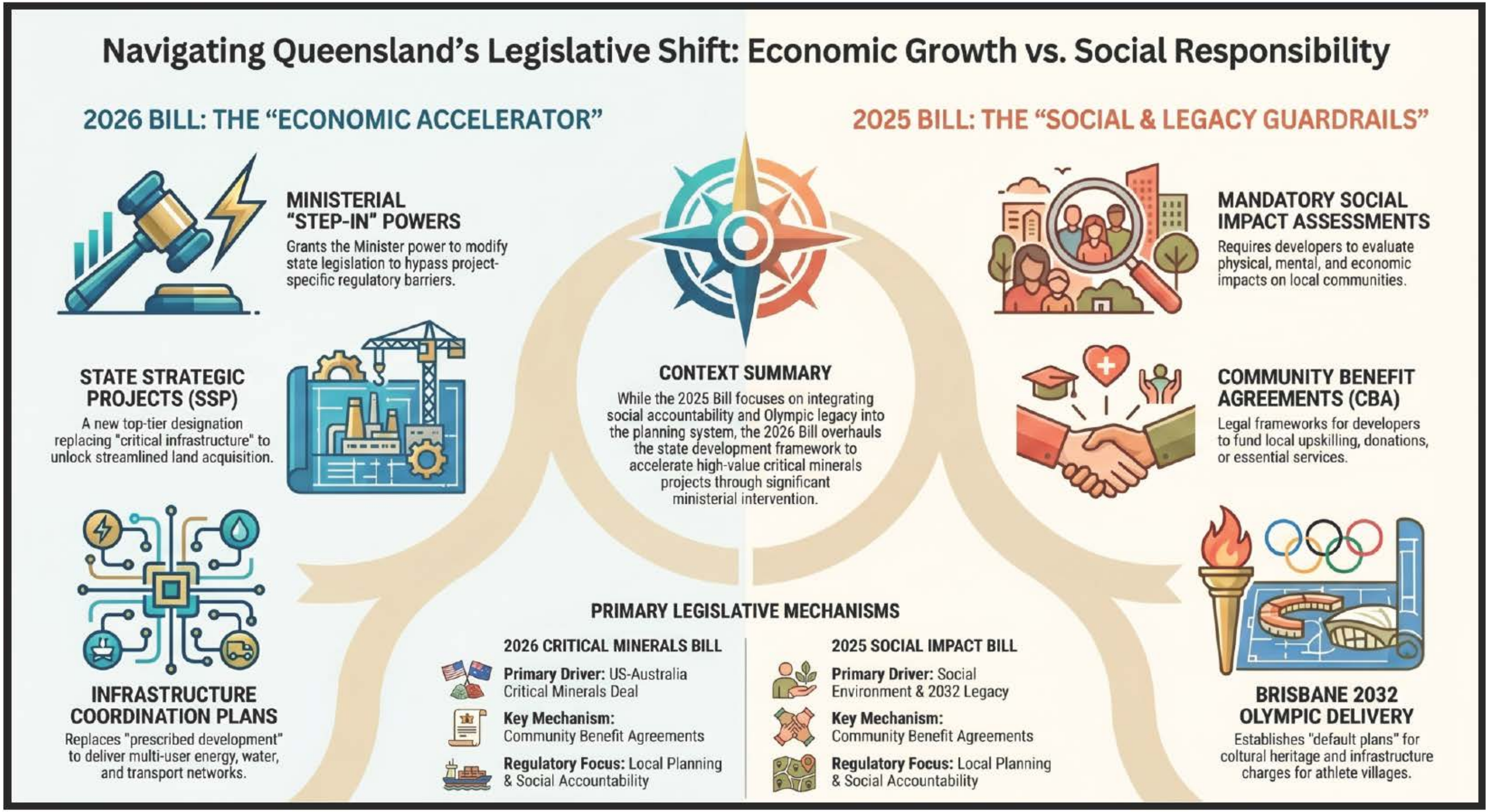
- **The 2025 Bill:** This legislation integrated public scrutiny into the core of the application cycle, ensuring that local stakeholders could assess the social implications of new developments.
- **The 2026 Bill:** Under the new Infrastructure Coordination Plan (ICP) regime, the Coordinator-General manages multi-user networks for resource projects. While investigations require formal notice, **the public and impacted landowners are not classified as "affected persons"** and are thus barred from submitting feedback. Only a narrow group of authorised parties may engage with a draft ICP.

Appeals, Merits Review, and Public Interest

- **The 2025 Bill:** This framework utilis ed the existing Planning Act, preserving the rights of citizens to challenge development approvals based on their social and environmental merits.
- **The 2026 Bill:** To mitigate litigious delays, the current Bill restricts third-party review. **Decisions governed by an ICP or State Significance Notice are exempt from merits appeals in the Planning and Environment Court**. Furthermore, the removal of independent public interest evaluations for pit voids allows these areas to be approved through proponent self-assessment, bypassing impartial scrutiny.

Summary

The 2025 Bill prioritised a robust community voice, leveraging binding agreements to compensate for social disruption. Conversely, the 2026 Critical Minerals Bill characterises extensive engagement as a barrier to development. By utilis ing executive powers to limit consultation and extinguish merits review rights, the 2026 reforms prioritis e the accelerated delivery of strategic mineral projects over the established principles of public participation and local input.



This graphic highlights the shift in focus between the current bill [on the left] and the social responsibility focus for renewable energy projects [on the right]

8. Attachment B:Comparative Jurisdictional Audit of State Development and Approvals Frameworks

Introduction

The global transition toward a low-carbon economy has established a new class of strategic assets.[1] Critical and strategic minerals - such as lithium, rare earth elements, cobalt, vanadium, and graphite - are now as crucial to national industrial policies and geopolitical alignments as petroleum was to previous generations.[1] Because advanced defense technologies, aerospace engineering, electric vehicles, and renewable energy infrastructure are heavily dependent on secure supply chains for these materials, resource-rich jurisdictions are competing intensely to attract global capital.[1]

In Australia, this competition is occurring within a complex, multi-layered regulatory environment where mining rights and environmental approvals have historically been governed by separate, often slow-moving statutory frameworks.[1] This report evaluates the legislative reforms introduced by the Queensland Government to accelerate state developments, resources, and critical mineral projects, comparing these changes against the legal frameworks of Western Australia and New South Wales.[3]

Queensland's Systemic Overhaul: The 2026 State Development Bill and Environmental Streamlining

The Queensland Government's revised strategy for state developments and critical minerals represents an ambitious attempt to accelerate projects from exploration to commercial production.[3] The legislative response is driven by major international agreements, specifically the framework executed on 20 October 2025 by the United States President and the Australian Prime Minister to secure critical mineral supply chains.[3] This agreement includes a joint US$1 billion commitment to unlock an US$8.5 billion pipeline of critical minerals projects.[3] Queensland is positioning itself to capture a significant portion of this investment by leveraging its deposits of 51 of the world's most sought-after critical minerals.[3]

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

Introduced on 2 June 2026 by the Deputy Premier and Minister for State Development, Infrastructure and Planning, the *State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026* proposes the most significant reforms to the state's project facilitation framework in over a decade.[3] The Bill was referred to the Primary Industries and Resources Committee for detailed inquiry, with a reporting deadline set for 3 December 2026.[3]

The primary policy objective is to establish an integrated regulatory framework that allows projects to progress rapidly while maintaining appropriate environmental, social, and economic controls.[3] To support this objective, the government has committed joint funding with the federal government to key regional assets, including the Mount Isa Mines copper smelter and the Townsville refinery, and has expanded the Mackay critical mineral processing facility to research processing technologies for tailings.[3]

Furthermore, the government has backed several strategically significant commercial projects.[3] These include Graphinex's Esmeralda graphite project near Townsville, which secured a US$1.3 billion letter of interest from the Export-Import Bank of the United States - marking the largest single commitment under the US-Australia critical minerals framework.[3] Other state-supported initiatives include Silica Resources Australia's silica projects, Vecco Group and Idemitsu Australia's vanadium electrolyte facility, and Austral's copper sulphide production.[3]

To sustain this pipeline, the government opened 18 new exploration blocks in March 2026, encompassing over 7,000 square kilometers for petroleum and gas (including the Taroom Trough, with blocks committed to domestic supply) and coal exploration in the Bowen and Surat basins, alongside two vanadium areas north-east of Julia Creek.[3]

To accelerate these initiatives, the 2026 Bill overhauls the *State Development and Public Works Organisation Act 1971* (the SDPWO Act) across several key areas:

- **State Strategic Projects (SSPs)**: This new top-tier development category replaces the existing "critical infrastructure project" designation.[8] Declared directly by the Minister, SSP status unlocks a powerful suite of facilitation tools.[8]
- **State Significance Notices (SSNs)**: Contained in Part 5A, Division 3A, the SSN is an intermediate power that allows the Minister to formally intervene in key approval decisions made by statutory authorities, local councils, or port authorities.[8] Decision-makers must provide the Minister with proposed outcomes and conditions, and must take the Minister's subsequent advice into account.[8]
- **Modification Orders (MOs)**: Contained in Part 5A, Division 3B, MOs are regulations recommended by the Minister to the Governor in Council that can modify or exclude the application of primary state legislation to an SSP.[3] This is a powerful administrative tool designed to resolve unforeseen regulatory duplication or accommodate novel technologies.[3]
- **Infrastructure Coordination Plans (ICPs)**: Replacing the former "prescribed development" framework under Part 5, the ICP regime establishes a structured process to investigate, prepare, and implement plans that coordinate the delivery of multi-user enabling infrastructure - such as transport, water, and energy networks - for resource projects.[3]

State Development Parameter	Queensland SDPWO Act Framework (2026 Bill)
Primary Legislation	*State Development and Public Works Organisation Act 1971* (amended 2026) [3]
Coordinating Authority	Coordinator-General (within the Department of State Development) [3]

Project Pathway	Proponent applies to CG; Minister declares Coordinated Project or State Strategic Project (SSP) [8]
Key Parliamentary Milestone	Bill introduced 2 June 2026; referred to Primary Industries and Resources Committee [3]
US-Australia Treaty Alignment	Focuses on securing a share of the US$8.5 billion pipeline and US$1 billion joint fund [3]
Key Approved Projects	Graphinex Esmeralda graphite (US$1.3B EXIM LOI), Vecco/Idemitsu vanadium electrolyte [3]

Land Access, Compulsory Acquisition, and Easement Overhaul

Bringing critical mineral projects to market at scale requires significant land use planning and active state intervention to resolve land availability and linear infrastructure co-location challenges.[3] The 2026 Bill completely restructures Queensland's statutory frameworks for land tenure and access.[3]

First, the Bill repeals the previous Private Infrastructure Facilities (PIF) framework under Part 6, Division 7.[3] In its place, it establishes a streamlined compulsory land acquisition mechanism for SSPs.[3]

A project proponent can apply to the Coordinator-General for endorsement to compulsorily acquire private land.[3] This is strictly an option of last resort; the proponent must demonstrate that good-faith negotiations have occurred for at least six months and that a "final unconditional offer" has been rejected by the landowner.[3]

The taking of the land follows the established processes of the *Acquisition of Land Act 1967*, ensuring that the landholder retains the right to object, be heard, and seek fair compensation in the Land Court.[3]

Second, the Bill introduces "Strategic Infrastructure Easements" (reforming critical infrastructure easements under Part 6, Division 8).[3] This mechanism allows the Coordinator-General to register linear infrastructure easements (such as pipelines or transmission lines) in their own name, which can subsequently be transferred to private proponents of SSPs.[8]

By allowing strategic easements to be registered over existing public utility corridors, the Bill enables project infrastructure to coexist with existing public utilities, minimis ing the cumulative impact on private landowners and accelerating construction timelines.[3]

Third, under Part 6A, the Bill establishes "Access Authorities".[3] This allows proponents of prescribed projects to apply to the Coordinator-General to enter private land without owner consent to conduct geological, environmental, and feasibility investigations.[3]

For SSPs, the Access Authority can authorise temporary "enabling works" (such as clearings or access tracks), subject to Governor in Council approval, provided the works are minor and do not unreasonably interfere with the landowner's quiet enjoyment.[3]

Environmental Protection Reform and Progressive Rehabilitation

Running parallel to the State Development Bill is the *Environmental Protection (Efficiency and Streamlining) and Other Legislation Amendment Bill 2025*, which was passed without amendment on 2 June 2026.[3] This legislation represents a dual-track strategy to reduce regulatory burdens for low-risk projects while maintaining environmental protections for highly sensitive developments.[3]

A major element of this environmental reform is the transition of lower-risk, small-scale resources activities - such as hand-mining for gemstones and boulder opals in western Queensland - from individual Environmental Authorities (EAs) to standardised "Environmentally Relevant Activity" (ERA) codes.[3]

Under these codes, operators do not require a customis ed, site-specific EA.[3] Instead, they must register their operations and comply with standard conditions.[3]

Furthermore, the Bill removes financial surety requirements for these small-scale, code-regulated mining operations, and the government has committed to refunding existing bonds to relieve cash flow pressures on small family businesses.[3]

However, high-risk waste disposal and organic processing activities - such as those within the Swanbank and New Chum industrial areas - are explicitly excluded from these code pathways and will continue to require rigorous, site-specific EA assessments.[3]

Despite these streamlining efforts, the environmental reforms have attracted significant opposition from conservation groups, community organisations, and legal societies.[3]

The Sunshine Coast Environmental Council, the Queensland Conservation Council, and the Environmental Defenders Office have raised concerns over the Bill's amendments to the Progressive Rehabilitation and Closure Plans (PRCPs) framework.[3]

The PRCP framework, introduced in 2019, requires mining companies to rehabilitate land progressively throughout the life of a project rather than deferring it until mine closure.[3]

However, as of June 2025, 144 out of 206 operating mines had failed to secure an approved PRCP.[3]

Rather than enforcing compliance, the 2025 Act permits the regulator to consider the "historical context" of legacy operations, potentially allowing older mines to be assessed against outdated rehabilitation standards.[3]

Additionally, the Act removes the requirement for independent "public interest evaluations" when a company proposes to leave non-rehabilitated "pit voids" (referred to as non-use management areas), allowing the regulator to approve these giant, groundwater-draining voids based solely on the proponent's self-assessment.[3]

Finally, the Act extends the reporting timeframe for Underground Water Impact Reports (UWIRs) in cumulative management areas - such as the Surat Basin - from a three-year cycle to a five-year cycle, drawing criticism from agricultural bodies who argue that longer reporting intervals could delay the detection of critical impacts on farming aquifers.[3]

Western Australia’s Coordinated Approach: The State Development Act 2025

While Queensland has focused on supercharging its existing state development and environmental frameworks, Western Australia has enacted an entirely new legislative instrument.[3] *Western Australia's State Development Act 2025* (WA) received royal assent on 19 December 2025, with the majority of its provisions coming into force on 18 February 2026.[6]

The Act establishes the statutory office of the Coordinator General (CG) within the Department of the Premier and Cabinet, formalising an independent authority to identify, coordinate, and facilitate "State-significant developments".[6]

The primary policy objective is to position WA to capture major strategic investments by targeting clean energy transition projects, critical minerals processing facilities, naval shipbuilding in the Henderson Defense Precinct, and net-zero green metal hubs.[6]

The WA Act establishes a dual-pathway system: coordinating designated geographic precincts known as State Development Areas (SDAs) and facilitating handpicked, strategically significant "Priority Projects".[6]

Priority Projects and the Coordination Toolkit

Under section 30 of the WA Act, the Minister for State Development (with the approval of the Premier) can designate a project as a Priority Project if they are satisfied that the development is of strategic or economic significance to the state.[17]

This designation enlivens a suite of ministerial powers designed to direct public authorities and streamline assessments across approximately 40 designated statutes, including the *Planning and Development Act 2005*, the *Biodiversity Conservation Act 2016*, and the *Heritage Act 2018*.[6]

The inaugural Priority Projects designated under this framework include the Clean Energy Link – East transmission upgrade, the Parron Maam Marang Farm, the Kondinin Wind Farm, and the Marri Wind Farm.[24]

The special powers enlivened by a Priority Project designation are structured as follows:

- **Due Regard Notices (Section 34)**: The Minister can issue a notice requiring a public authority to give specified matters "due regard" when making a decision under a designated statute.[6] This allows the Minister to elevate state development priorities within another regulator's assessment process, although the notice cannot permit an authority to consider matters outside its statutory scope.[6]
- **Timeframe Notices (Section 37)**: The Minister can require a public authority to make a decision or perform a statutory function within a specified period, which cannot be less than 20 business days.[6] While there are no direct penalties for non-compliance, an authority that fails to meet the deadline must table an explanation in Parliament stating why it failed and when it will complete the function.[17]
- **Joint Decision Notices (Section 41)**: The Minister can require a public authority to consult and jointly make a decision with the Minister or CG, allowing the decision-maker to consider the broad objects of the State Development Act alongside the specific provisions of the designated statute.[6]
- **Modification Orders (Section 50)**: With the Premier's approval, the Minister can issue a regulation providing that specified provisions of a designated Act do not

apply, or apply with modifications, to a Priority Project to prevent administrative duplication.[20]

Fast-Tracking Mechanism	Western Australia State Development Act 2025
Primary Legislation	*State Development Act 2025* (WA) [6]
Statutory Executive	Coordinator General within Department of the Premier and Cabinet [6]
Inaugural Priority Projects	Clean Energy Link – East, Parron Maam Marang Farm, Kondinin Wind Farm [24]
Minimum Timeframe Notice	$t_{\text{notice}} \geq$ [6]
First Declared Precinct	Western Trade Coast State Development Area [27]
Maximum Offense Fine	AU$100,000 (plus AU$5,000 daily penalty for non-compliance with orders) [6]

Precinct Coordination: State Development Areas (SDAs)

In addition to individual Priority Projects, the WA Act enables the Minister (with the Premier's approval) to declare strategically significant geographic areas as State Development Areas (SDAs).[17]

This pathway is designed to coordinate planning and infrastructure delivery for strategic economic hubs, such as renewable energy precincts, industrial circular economy hubs, and multi-user infrastructure corridors.[22]

The Western Trade Coast was declared Western Australia's first SDA in early 2026 to plan for the future of the state's premier industrial region.[27]

Once an SDA is declared, the Office of the Coordinator General assumes high-level oversight of the area’s planning and development.[22]

The OCG works with local governments, landowners, and agencies to prepare an "SDA Plan".[22]

All public authorities must give "due regard" to the applicable SDA Plan when making decisions or exercising functions within the precinct.[17]

Furthermore, the Minister can implement "Improvement Schemes" and "Improvement Plans" to establish a single, streamlined planning framework for the entire area, bypassing conflicting local government planning schemes.[22]

New South Wales' Integrated Planning Framework: SSD, SSI, and the IDA

Unlike Queensland and Western Australia, which have established dedicated statutory structures for state development, New South Wales has historically relied on the established pathways of State Significant Development (SSD), State Significant Infrastructure (SSI), and Critical State Significant Infrastructure (CSSI) under the *Environmental Planning and Assessment Act 1979* (the EP&A Act).[29]

Instead of creating a standalone State Development Act, NSW has pursued a strategy of targeted institutional creation and continuous planning-law modification to fast-track critical minerals and clean energy projects.[7]

The NSW system operates on clear, cost-based thresholds set out in the *State Environmental Planning Policy (Planning Systems) 2021* [29]:

- **State Significant Development (SSD)**: Under Schedule 1, clause 5 of the SEPP, any mineral sands mine, coal mine, mine in an environmentally sensitive area of state significance, or mining development with a capital investment value of more than $30 million is declared SSD.[29] Proponents must submit a comprehensive Environmental Impact Statement (EIS) for assessment by the Department of Planning, Housing and Infrastructure (DPHI), with the Minister for Planning or the Independent Planning Commission (IPC) acting as the consent authority.[32]
- **State Significant Infrastructure (SSI)**: SSI declarations under Division 5.2 of the EP&A Act are reserved for major public infrastructure, utilities, and linear corridors (such as railways, transmission lines, and pipelines) that do not require development consent under Part 4 but require approval from the Minister for Planning.[34]
- **Critical State Significant Infrastructure (CSSI)**: Under section 5.13 of the EP&A Act, the Minister can declare any SSI project to be CSSI if they are of the opinion that the infrastructure is essential for the state for economic, environmental, or social reasons.[34]

The operational parameters and capital thresholds governing the NSW planning system are detailed below.

Planning Assessment Parameter	New South Wales EP&A Act Framework
Primary Legislation	*Environmental Planning and Assessment Act 1979* (Part 4 and Part 5) [36]
Coordinating Authorities	Investment Delivery Authority (IDA) & Development Coordination Authority (DCA) [9]
SSD Mining Threshold	Capital Investment Value $\geq$ (or any coal/mineral sands mine) [29]

IDA Capital Threshold	Estimated Development Cost (EDC) $\geq$ (private capital) [38]
Royalty Deferral Scheme	Deferral up to $250 million for 5 years (market cap $\leq$; excludes copper/gold) [1]
Key Approved Projects	Copi Mineral Sands ($693M approvals; 27Mtpa extraction), Constellation copper [32]

The Investment Delivery Authority and the Development Coordination Authority

To streamline the approvals process for major private investments, the NSW Government announced the establishment of the Investment Delivery Authority (IDA) in late 2025.[7]

Operating within the Premier's Department, the IDA acts as a "single front door" for large-scale commercial, technology, and energy projects that do not rely on government funding and have an Estimated Development Cost (EDC) of $100 million or more.[38]

The IDA does not override statutory planning laws; instead, it provides multi-agency facilitation services, coordinating up to 22 separate government agencies to resolve procedural gridlocks and accelerate approvals.[38]

In its inaugural expression of interest (EOI) round, which closed in June 2026, the IDA formally endorsed 16 critical projects from 48 submissions.[38]

To complement the IDA, the government established the Development Coordination Authority (DCA) in December 2025, with operations commencing on 1 July 2026.[9]

The DCA is designed to consolidate inter-agency assessments for priority sectors.[9]

This was reinforced by the introduction of the *Energy Legislation Amendment (Prioritising Renewable Energy) Bill 2026* on 6 May 2026.[9]

The Bill empowers the NSW Energy Minister to declare high-priority renewable energy, storage, and transmission developments as "Priority Energy Projects" (PEPs).[9]

PEPs are fast-tracked through the DCA, and the Bill expands the Planning Minister's power to declare PEPs as SSD (without requiring advice from the IPC) or as SSI (upon the Energy Minister's recommendation), centralis ing decision-making authority away from local councils.[9]

Critical Minerals Strategy and the Copi Project Approval

New South Wales has integrated these planning pathways with its *Critical Minerals and High-Tech Metals Strategy*, aiming to establish the state as a leading destination for critical minerals investment.[1]

The strategy identifies five priority metals - rare earth elements, scandium, copper, silver, and cobalt - and supports development through the Central West Critical Minerals Hub.[1]

A major financial lever is the Royalty Deferral Scheme, launched in July 2025.[1]

Under this scheme, critical mineral projects listed on the Commonwealth Critical Minerals List with a market capitalisation of under $5 billion can defer up to $250 million in royalties during their first five years of operation (the scheme excludes copper and gold).[1]

The effectiveness of this integrated planning and financial framework was demonstrated on 27 May 2026, when the NSW Government approved the $693 million Copi Mineral Sands Project in the state's Far South West.[40]

Developed by RZ Resources, the Copi project represents a major mineral sands operation valued at $977 million.[4]

The project is approved to extract up to 27 million tonnes of heavy mineral ore per year over an 18-year period, producing up to 400,000 tonnes of critical mineral concentrates annually, including monazite (a key source of rare earth elements), titanium-bearing ilmenite, rutile, and zircon.[4]

The project has secured a US$450 million letter of interest in co-investment from the US EXIM Bank and Export Finance Australia, reflecting its strategic importance under the US-Australia critical minerals framework.[4]

The Copi project was assessed and approved as an SSD under Part 4, Division 4.7 of the EP&A Act, with the approval carrying conditions for extensive local road upgrades and product transport to the South Australian border.[32]

This was the second major critical minerals approval in four months, following the approval of Aeris Resources' Constellation copper project.[40]

Comparative Assessment: Queensland vs. Western Australia vs. New South Wales

The three jurisdictions have developed distinct legal models to accelerate resources and critical mineral developments.[6]

While Queensland supercharges its existing Coordinator-General powers, Western Australia has established a dedicated State Development Act, and New South Wales has adapted its EP&A Act through institutional overlay.[6]

A detailed comparison of these models reveals significant differences in executive power, inter-agency coordination, land access, environmental integrity, and the restriction of public participation.[8]

The Limits of Executive Power and Henry VIII Clauses

The most legally controversial feature of the Queensland and Western Australian frameworks is the introduction of "Modification Orders".[6]

In Queensland, a Modification Order under section 76RH allows the Minister (via regulation approved by the Governor in Council) to modify or exclude the application of another state Act to a State Strategic Project.[3]

The WA Act under section 50 grants a similar power to modify primary legislation with the Premier's approval.[20]

Both states have implemented safeguards to protect core regulatory requirements.[3]

Queensland's Bill specifies that an MO cannot override the need to obtain "key authorisations" (such as environmental authorities, resource tenures, development permits, or cultural heritage plans), nor can it interfere with Commonwealth bilateral environmental assessments under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).[3]

Similarly, WA's Act prevents an MO from removing the requirement for a "key regulatory authorisation" or altering EPBC bilateral processes.[20]

In both jurisdictions, these orders are made via subordinate legislation, meaning they must be tabled in Parliament and are subject to disallowance.[3]

New South Wales has taken a different path, integrating overriding powers directly into primary planning legislation.[34]

Under section 5.23 of the EP&A Act, once a project is approved as SSI or CSSI, a range of other environmental approvals are automatically declared "not required".[34]

Under section 5.24, other key approvals (such as environmental protection licences or mining leases) cannot be refused and must be issued consistently with the SSI approval.[33]

Furthermore, the NSW Targeted Assessment Development (TAD) pathway, introduced under the 2025 reforms, allows the Minister to declare a project a TAD.[31]

Once declared, it is unlawful for a consent authority to consider environmental, social, or economic impacts, site suitability, or the public interest.[31]

Because these exclusions are built directly into the statutory planning pathways, they do not require the parliamentary disallowance processes associated with Queensland and WA Modification Orders.[6]

Proponent Power and Initiation Rights

A major operational difference between the three jurisdictions is who holds the power to initiate the fast-tracking process.[17]

In Queensland, the framework is heavily "proponent-led".[17]

A project developer can apply directly to the Coordinator-General to have their project declared a "coordinated project" or seek SSP designation.[3]

This allows private developers to actively trigger the state's fast-tracking mechanisms and access land entry and easement-creating powers.[3]

Western Australia's model, conversely, is strictly "government-led".[17]

The WA Act centralises significant discretion with the Minister and CG.[17]

A proponent cannot apply to have a project declared a Priority Project; the power to identify and designate projects resides entirely with the executive.[17]

While this allows the government to focus resources on key sectors (such as renewable energy and defense), it limits the utility of the Act for private critical mineral developers who must wait for the government to act.[17]

New South Wales operates a hybrid, "concierge-led" model.[38]

Private developers cannot unilaterally trigger SSD or CSSI declarations, but they can submit an Expression of Interest (EOI) to the Investment Delivery Authority (IDA).[7]

If the project meets the required capital threshold (EDC >$100,000,000) and demonstrates commercial feasibility without relying on state funding, the IDA will endorse the project and coordinate assessments across government agencies.[38]

A comparative matrix of these fast-tracking powers and proponent rights across the three states is detailed below.

Statutory Parameter	Queensland (2026 Bill)	Western Australia (2025 Act)	New South Wales (EP&A Act)
Executive Override Tool	**Modification Order**: Subordinate regulation modifies designated Acts [3]	**Modification Order**: Subordinate regulation modifies designated Acts [6]	**Statutory Exemptions**: S 5.23 eliminates permits; S 5.24 forces consistent licensing [34]
Parliamentary Oversight	Yes; orders are subject to parliamentary disallowance [3]	Yes; orders are subject to parliamentary disallowance [25]	No; exemptions are built directly into primary statutory pathways [34]
Proponent Initiation Rights	High; proponent applies directly to CG for SSP or Coordinated Project declaration [3]	None; designation is at complete ministerial discretion [17]	Medium; proponent submits EOI to IDA to access concierge fast-tracking [7]
Inter-Agency Timeframe Directives	**Notice to Decide** & **Step-In**: CG can assume decision-making [3]	**Timeframe Notice**: Forces decision within specified period; no statutory defaults [6]	**DCA Directions**: Forces agency decisions within specified periods [9]
Joint Decision-Making Power	**State Significance Notice**: Forces consultation; final decision with authority [8]	**Joint Decision Notice**: Forces agreement; unresolved deadlocks decided by the Premier [6]	**PEP Declarations**: Expands Planning Minister's power to declare PEPs as SSD or SSI [9]

Inter-Agency Coordination and Decision-Making Deadlocks

The effectiveness of any fast-tracking framework depends on its ability to resolve delays and deadlocks across different government agencies.[10]

Queensland's SDPWO Act has long featured "Step-In" and "Notice to Decide" powers.[3]

If a statutory decision-maker fails to make a decision on a prescribed project within the required period, the Coordinator-General can issue a step-in notice (with the Minister's approval) and assume decision-making authority, ensuring that the project is not stalled by administrative inaction.[3]

Western Australia's *State Development Act 2025* lacks these step-in powers, representing a potential weakness in the WA framework.[17]

If an agency fails to meet a deadline set by a Timeframe Notice, there are no statutory consequences under the Act, and the CG cannot step in to make the decision.[17]

The Timeframe Notice risks being relegated to "exhortatory guidance" rather than a binding obligation.[17]

However, WA has introduced a unique "Joint Decision Notice" mechanism to resolve inter-agency conflicts.[6]

If the Minister and the public authority cannot agree on a decision for a Priority Project, the final decision is made by the Premier.[17]

This gives the Premier ultimate decision-making authority, even if the underlying legislation does not vest such power in the Premier.[17]

New South Wales manages inter-agency coordination through the IDA and the newly established DCA.[9]

The IDA coordinates up to 22 separate government agencies to resolve procedural gridlocks, while the DCA is empowered to centralise assessments for Priority Energy Projects (PEPs).[9]

Under the 2026 renewable energy reforms, the Planning Minister has express powers to direct the Independent Planning Commission (IPC) to perform its functions for SSD, SSI, and CSSI projects within specified times.[9]

The Erosion of Merits Review and Public Participation

A consistent theme across all three jurisdictions is the systematic restriction of community participation and third-party merits review in the name of administrative "efficiency".[3]

In Queensland, the 2026 Bill exempts decisions subject to a State Significance Notice or made in relation to an Infrastructure Coordination Plan from third-party merits review or appeal in the Planning and Environment Court.[8]

While the Bill preserves judicial review under the *Judicial Review Act 1991* and protects landowners' rights to contest compulsory acquisition compensation in the Land Court, it effectively excludes community groups and neighboring landholders from challenging the planning and environmental merits of major project approvals.[16]

Additionally, the *Environmental Protection (Efficiency and Streamlining) Amendment Act 2025* removes public notification requirements for draft terms of reference for EIS assessments, despite historical data indicating that public submissions resulted in modifications to the terms of reference in 100% of cases.[8]

The 2025 Act also removes the requirement for independent "public interest evaluations" when a company proposes to leave non-rehabilitated "pit voids" (or non-use management areas), allowing the regulator to approve these giant, groundwater-draining voids based solely on the proponent's self-assessment.[3]

Western Australia's *State Development Act 2025* is even more restrictive, containing no statutory requirements to consult the public before the Minister issues timeframe notices, due regard notices, or modification orders.[26]

The WA Act provides no public right of appeal or independent merits review for Priority Project or SDA declarations, and third-party challenges are confined strictly to judicial review in the Supreme Court of Western Australia.[23]

New South Wales has historically maintained a robust third-party merits appeal framework in the Land and Environment Court for designated developments and certain SSDs.[47]

However, the state has actively leveraged legislative mechanisms to bypass these rights.[9]

Under the EP&A Act, if the Independent Planning Commission (IPC) conducts a public hearing in respect of an SSD application, the merits appeal rights of both the proponent and third-party objectors are completely extinguished.[9]

The *Energy Legislation Amendment (Prioritising Renewable Energy) Bill 2026* explicitly expands the Planning Minister's power to direct the IPC to hold public hearings for PEPs, signaling a deliberate policy to use public hearings as a shield to insulate major energy and critical mineral projects from litigation.[9]

Furthermore, the NSW Targeted Assessment Development pathway entirely removes the heads of consideration for environmental, social, and public interest impacts from primary legislation, shifting them to ministerially controlled regulations to prevent judicial scrutiny on those grounds.[31]

The statutory exclusions and appeal restrictions across the three jurisdictions are compared below.

Jurisdictional Area	Queensland (2026 Bill)	Western Australia (2025 Act)	New South Wales (EP&A Act)
Merits Appeal Exclusions	Decisions under SSNs and ICPs are exempt from Planning & Environment Court appeals [8]	No public right of appeal or merits review for Priority Project or SDA declarations [46]	Extinguished if the IPC conducts a public hearing (e.g., requested for wind/solar PEPs) [9]
Judicial Review Pathway	Preserved under the *Judicial Review Act 1991* (except for specific SSN decisions) [8]	Preserved strictly via the inherent jurisdiction of the Supreme Court [23]	Preserved under the *Judicial Review Act 1991* [38]

Public Consultation Exclusions	Removes public notification for draft EIS terms of reference [8]; removes public interest evaluations for pit voids [3]	No statutory requirement to consult the public on special notices or modification orders [26]	Exempts PEP SSD declarations from IPC advice; removes environmental/public interest considerations for TADs [9]
Independent Regulator Exclusions	Integrates RPI Act and TI Act conditioning into CG's final coordinated project evaluation report [3]	Special notices (Due Regard, Joint Decision) cannot be given to the EPA or Heritage Council without consent [6]	IPC advice exempted for PEP declarations; Planning Minister can direct IPC functions and timelines [9]

Conclusions and Strategic Policy Recommendations

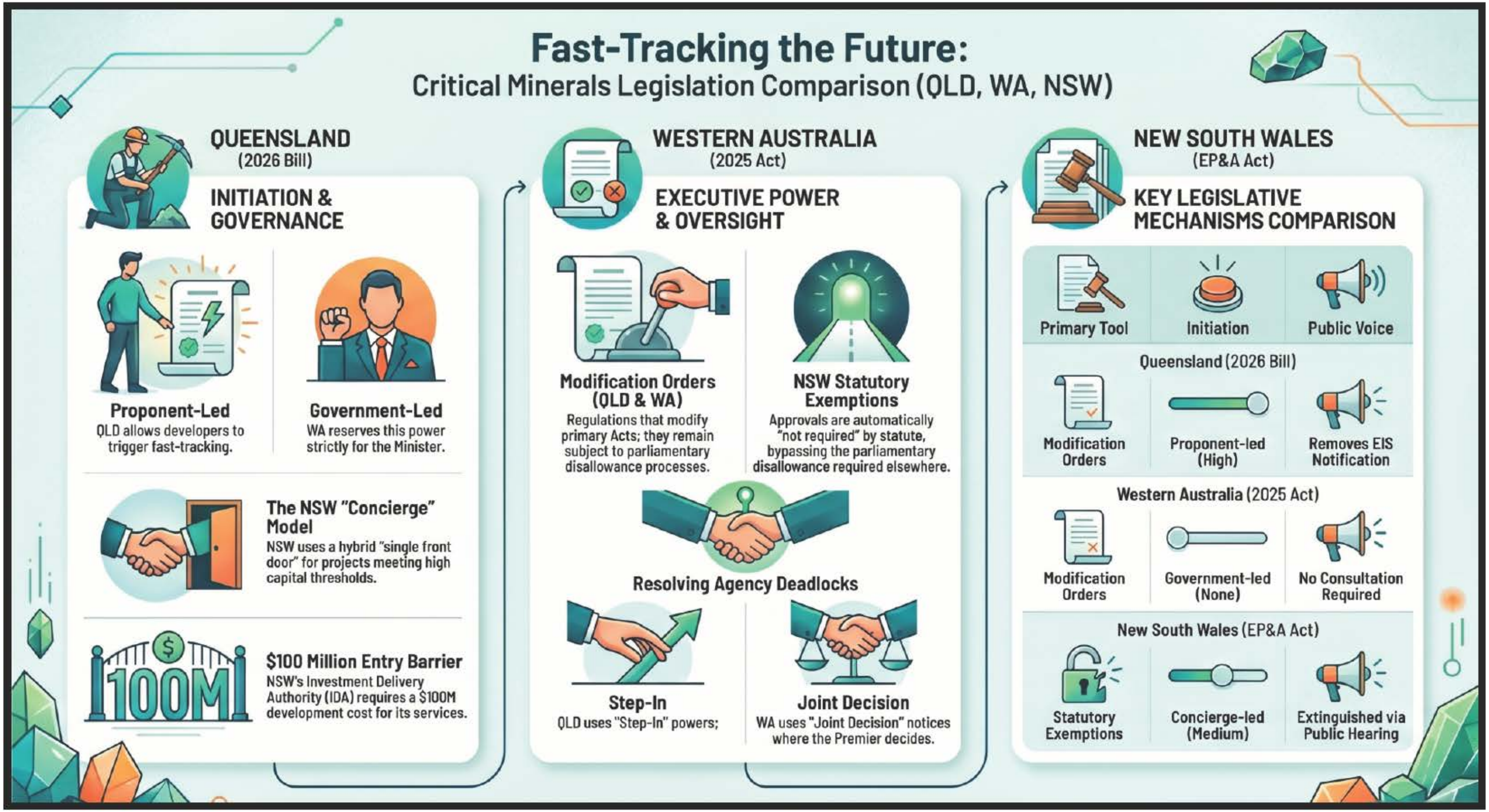
The comparative jurisdictional audit of the state development frameworks in Queensland, Western Australia, and New South Wales highlights a fundamental restructuring of natural resources and planning law.[6] The demands of the global energy transition have led all three states to implement highly centralis ed, executive-led fast-tracking regimes that prioritis e economic and strategic outcomes over traditional distributed decision-making.[8]

Queensland's 2026 Bill supercharges the SDPWO Act by creating a potent legal toolkit for State Strategic Projects, leveraging Modification Orders and State Significance Notices to bypass regulatory hurdles.[8] This model is closely aligned with Western Australia's *State Development Act 2025*, which utilis es similar executive modification powers and joint decision-making processes overseen by a statutory Coordinator General.[6] New South Wales achieves similar fast-tracking through a combination of statutory exemptions under the EP&A Act and the targeted creation of super-authorities like the Investment Delivery Authority.[34]

For project proponents and policymakers, this shifting legal landscape presents several distinct opportunities and risks:

- **Strategic Leverage of Overriding Powers**: Proponents of major critical minerals and infrastructure projects must actively engage with state coordinating authorities (the CG in Queensland and WA, and the IDA in NSW).[17] Demonstrating clear strategic alignment with government economic and decarbonisation policies is now a prerequisite to unlocking executive-led facilitation tools, such as Modification Orders or CSSI declarations.[15]
- **Mitigation of Litigious and Appeal Risks**: Developers should design their approval strategies to align with pathways that extinguish third-party merits appeals.[8] In Queensland, securing SSP status and operating under State Significance Notices shields projects from Planning and Environment Court appeals.[8] In NSW, proactively supporting Planning Ministerial directions for IPC public hearings can effectively immunise approved projects from protracted third-party litigation.[9]

- **Rigorous Compliance and Enforcement Management**: While fast-tracking mechanisms lower the initial barriers to project approval, they are accompanied by strengthened compliance frameworks and significant penalties for non-compliance with custom conditions.[8] Proponents must establish robust internal auditing systems to ensure strict compliance with enforceable conditions, particularly in Queensland where courts have gained expanded powers to order the forfeiture of vehicles and equipment used in environmental or development offenses.[3]
- **Active Stakeholder and Landowner Negotiation**: Despite the expansion of compulsory acquisition and land entry powers, these tools remain mechanisms of last resort.[3] Proponents must document exhaustive, good-faith negotiations with landowners and First Nations groups.[1] Failing to demonstrate genuine efforts to purchase land or secure access by agreement can result in the refusal of Access Authorities or compulsory acquisition endorsements.[3]



Fast-Tracking the Future:
Critical Minerals Legislation Comparison (QLD, WA, NSW)
QUEENSLAND
(2026 Bill)
INITIATION & GOVERNANCE
Proponent-Led
QLD allows developers to trigger fast-tracking.
Government-Led
WA reserves this power strictly for the Minister.
The NSW "Concierge" Model
NSW uses a hybrid "single front door" for projects meeting high capital thresholds.
100M
$100 Million Entry Barrier
NSW's Investment Delivery Authority (IDA) requires a $100M development cost for its services.
WESTERN AUSTRALIA
(2025 Act)
EXECUTIVE POWER & OVERSIGHT
Modification Orders (QLD & WA)
Regulations that modify primary Acts; they remain subject to parliamentary disallowance processes.
NSW Statutory Exemptions
Approvals are automatically "not required" by statute, bypassing the parliamentary disallowance required elsewhere.
Resolving Agency Deadlocks
Step-In
QLD uses "Step-In" powers;
Joint Decision
WA uses "Joint Decision" notices where the Premier decides.
NEW SOUTH WALES
(EP&A Act)
KEY LEGISLATIVE MECHANISMS COMPARISON
Primary Tool
Initiation
Public Voice
Queensland (2026 Bill)
Modification Orders
Proponent-led (High)
Removes EIS Notification
Western Australia (2025 Act)
Modification Orders
Government-led (None)
No Consultation Required
New South Wales (EP&A Act)
Statutory Exemptions
Concierge-led (Medium)
Extinguished via Public Hearing

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