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

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Committee Secretary
Primary Industries and Resources Committee
Parliament House
George Street
Brisbane Qld 4000

By email: PIRC@parliament.qld.gov.au

Dear Committee Secretary

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

Thank you for the opportunity to submit to the inquiry into the State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026.

The Queensland Law Society is the peak professional body for the State's legal practitioners. We represent and promote over 14,000 legal professionals, increase community understanding of the law, help protect the rights of individuals and advise the community about the many benefits solicitors can provide. QLS also assists the public by advising government on improvements to laws affecting Queenslanders and working to improve their access to the law.

This submission has been informed by the QLS Planning and Environment and First Nations Legal Policy Committees, whose members have substantial expertise in this area.

In the time available review of this lengthy Bill and supporting material, we raise the following for the Committee's consideration:

1. **Proportionality of new powers**

QLS queries whether the new powers in the Bill are proportionate to the identified policy objectives, or whether more targeted reforms to the existing coordinated project and prescribed project frameworks under the *State Development and Public Works Organisation Act 1971* (**SDPWO Act**) could achieve comparable outcomes with fewer adverse consequences.

The existing coordinated project declaration under Part 4 of the SDPWO Act already provides a well-established mechanism for the assessment and facilitation of major projects. Under the current framework, the Coordinator-General may declare a project to be a coordinated project, triggering a comprehensive environmental impact statement process with the ability to state conditions for downstream approvals. This framework has been used for decades to facilitate Queensland's most significant resource and infrastructure projects.

The SDPWO Act already contains prescribed project powers under Part 5A, including the notice to decide and step-in notice mechanisms, which enable the Coordinator-General to intervene where decision-making is delayed. The Statement of Compatibility itself acknowledges that one alternative considered was to "rely on existing limitations of prescribed project powers, critical infrastructure easements and compulsory acquisition powers for private infrastructure facilities" but dismissed this option on the basis that it "does not provide solutions to common issues for major projects, nor keep Queensland's regulatory framework competitive with other jurisdictions".

2. Environmental safeguards

QLS also queries whether the environmental protection mechanisms in the Bill are adequate, particularly given the removal of the EIS requirement from the compulsory acquisition process, the broad Ministerial discretion in decision-making, and the integration of specialised environmental assessment regimes into a streamlined framework.

The Bill defines "environment" and "environmental effects" broadly under Schedule 2 of the SDPWO Act to extend to "social, economic, aesthetic, and cultural dimensions in addition to ecological ones". While this broad definition might appear protective, it equally dilutes the ecological focus by subsuming environmental considerations within a wider basket of factors which may be used to justify trade-offs against ecological values.

The Bill integrates the regional interests development approval process under the *Regional Planning Interests Act 2014* (**RPI Act**) into the coordinated project framework. Under the amendments, the Coordinator-General's final EIS or IAR report for a coordinated project is taken to be the report that must accompany an assessment application for a regional interests development approval. Whilst this may reduce duplication, it also risks reducing the specificity and rigour of assessment under the RPI Act, which was designed to protect areas of regional interest—including strategic cropping land, strategic environmental areas, and areas designated for priority living purposes—from inappropriate development.

Significantly, the Bill removes the former requirement under section 153AA for an EIS to be provided with an application for approval of a State strategic project as a purpose for which land can be taken under section 125. The Statement of Compatibility acknowledges this change but states only that "this does not mean that an EIS is no longer required for a project". This is a material weakening of the former private infrastructure facility framework, which expressly linked environmental assessment to the compulsory acquisition process.

The Bill vests significant discretionary power in the Minister to decide development applications under the infrastructure coordination plans framework, with the ability to impose "any condition they consider reasonable and desirable on a development approval" under new section 58K. This broad discretion, combined with the absence of structured environmental assessment criteria, creates a risk that environmental considerations may be subordinated to the economic objectives that drive the exercise of Part 5 powers.

In addition to these risks, the removal of the EIS requirement from the compulsory acquisition process fundamentally undermines the identification of localised Aboriginal and Torres Strait Islander cultural heritage as required by the legislation (*Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003*). Normally an EIS requires a Part 7

Cultural Heritage Management Plan (CHMP) under this legislation and the Bill's supporting materials do not outline how the impacts from the removal of this requirement will be addressed in this context. These issues should be addressed in the Committee's inquiry and prior to the legislation being passed.

3. Review rights

QLS suggests the systematic removal of third-party appeal and objection rights across multiple frameworks may not be justified and it is unclear whether appropriate mechanisms for independent merit-based review can be retained without materially impeding project delivery timeframes.

The decision of the Minister to give a State significance notice is excluded from review under the *Judicial Review Act 1991* by amendment to section 76W. While the Statement of Compatibility notes that this "cannot oust the Supreme Court's inherent jurisdiction", in practice, the costs and procedural barriers associated with seeking prerogative relief in the Supreme Court render this an inadequate substitute for the statutory review rights being removed.

The complete removal of merit-based appeals to the Planning and Environment Court systematically disenfranchises regional and remote residents, who this legislation will impact most. As stated, these communities lack the financial resources to bring matters in the Supreme Court, making the removal of standard third-party objector rights a functional denial of natural justice.

Beyond the formal removal of appeal rights, the Bill also constrains participation in decision-making processes. Under the investigation process for infrastructure coordination plans, members of the public and owners of land impacted by the investigation are not included as "affected persons" and are therefore unable to make submissions. Only a limited range of persons are permitted to make submissions on a draft ICP. Where a relevant planning application is retained by the Minister for decision, there will be no public notification unless the application would normally have been publicly notified.

4. Substantive provisions should be in primary legislation

QLS cautions that the reliance on subordinate legislation in respect of modification orders could breach the fundamental legislation principle that provisions of these kinds should be in the primary, not subordinate legislation. Further, while provisions in subordinate legislation can be disallowed by Parliament, this is scrutiny differs from that afforded to primary legislation. This may not be appropriate given the impact of these orders on individual projects.

This issue is raised in the Explanatory Notes including the effect that the subordinate legislation will seek to alter the operation of the primary legislation, but seeks to justify this on the basis of efficiency, and that the "Bill includes a series of threshold tests, criteria and process requirements to curtail the scope and scale of the inconsistency to the extent possible." We again query whether this is an appropriate mitigating factor.

5. Impact of modification orders on Aboriginal and Torres Strait Islander rights

While the Explanatory Notes suggest that modification orders cannot exclude Aboriginal and Torres Strait Islander rights, granting the power to alter the processes, criteria, and decision-makers for key authorisations introduces severe regulatory uncertainty. This mechanism could be used to alter or fast-track the statutory timelines required to negotiate a genuine CHMP. If this is not the intention of the amendments, we suggest this be clarified in the legislation.

6. Utilisation of existing powers

QLS queries whether the Government has adequately demonstrated that the existing SDPWO Act framework has been fully utilised and found wanting, before resorting to the creation of new powers that significantly expand executive authority at the expense of established accountability mechanisms.

The Explanatory Notes acknowledge that the former Part 5 (Prescribed development) was "outdated and generally inconsistent with modern legislative drafting approaches and design principles" and relied heavily on decisions of the Governor in Council "with limited (if any) criteria and significant discretion". However, this is an admission that the existing framework has not been adequately maintained or utilised, rather than a justification for the sweeping new powers introduced by the Bill. An alternative approach would be targeted amendments to modernise the existing provisions and remove barriers to their utilisation, without simultaneously introducing broad new executive powers that significantly curtail accountability mechanisms.

The Explanatory Notes' consideration of alternatives reveals that non-regulatory approaches were dismissed primarily because they "lack enforceability, clarity of interaction with other Acts, and the ability to displace duplicative processes". This framing overlooks the possibility of incremental reform to the existing statutory framework to address these identified deficiencies, without the need for the broad new discretionary powers contained in the Bill.

It is submitted the Committee should carefully examine whether the Bill's sweeping new powers—particularly modification orders and State significance notices—are proportionate responses to the identified deficiencies, or whether more targeted reforms to the existing coordinated project and prescribed project frameworks would achieve the stated policy objectives without the concomitant erosion of environmental safeguards and review rights.

7. Compulsory acquisition for private purposes

Finally, the Committee should examine whether it is appropriate for land to be compulsorily acquired by the State and conferred upon private proponents for projects that are not of a public nature, and whether the Bill adequately addresses:

(a) the allocation of financial responsibility for compensation payable to dispossessed landowners, given the voluntary nature of cost recovery contracts;

(b) the adequacy of the 10-business day offer period for landowners to obtain valuations and legal advice; and

(c) the removal of the EIS requirement from the acquisition process.

These processes should be clear in the legislation to reduce the likelihood of disputes.

The Bill replaces the former "infrastructure facilities" mechanism in Part 6, Division 7 of the SDPWO Act with a new regime for the compulsory acquisition of land for State strategic projects. Critically, this mechanism allows the Government to permit the acquisition of land for the purpose of "conferring rights and interests in the acquired land in a private person for the purpose of carrying out a project other than of a public nature". This represents a fundamental departure from the traditional rationale for compulsory acquisition, which has historically been justified only where the taking of private property serves a demonstrable public purpose.

Whilst the Explanatory Notes acknowledge that the "core design" of the former private infrastructure facility mechanism has been maintained, they also acknowledge that the change "will widen the types of projects (i.e. uses of land) for which the power may be deployed". This widening occurs because the power is now tied to the broad category of State strategic projects rather than the former, more confined class of "infrastructure facilities". The Explanatory Notes suggest this is offset by the fact that State strategic projects are a "very limited class", but the criteria for declaration under new section 76EB are expressed in broad and subjective terms—the Minister need only consider that a project is "critical or essential for the State for economic, environmental or social reasons" or that it will "significantly contribute" to the Government's objectives.

Further, the decision to declare a project to be a State strategic project is expressly not subject to review under the *Judicial Review Act 1991*. This means that the foundational decision underpinning the compulsory acquisition—the declaration of State strategic project status—cannot be challenged in the courts, notwithstanding that the Supreme Court's inherent jurisdiction may remain available.

The Bill provides that the Coordinator-General carries out the acquisition under section 125 of the SDPWO Act, with the "standard framework of notice, negotiation, objection and compensation" under the *Acquisition of Land Act 1967* stated to be available to the landowner and any interest holders. However, the Bill is notably unclear regarding who ultimately bears the cost of compensation payable to the dispossessed landowner.

Under the mechanism, it is the Coordinator-General—acting on behalf of the State—who takes the land. The land is then conferred upon the private proponent for the purposes of the project. This structure raises the question of whether compensation is payable by the State (as the acquiring authority) or whether the proponent is required to fund the compensation.

The Bill provides that the Coordinator-General may negotiate and enter into contracts with proponents to recover the Coordinator-General's costs of providing services, including undertaking compulsory acquisition (amended section 158). However, these contracts are described as "voluntary" in nature. There is no express statutory requirement in the Bill mandating that the proponent must reimburse the State for compensation paid to the landowner. This creates a risk that the financial burden of compensation for land acquired for a private commercial purpose may ultimately fall on Queensland taxpayers rather than the private proponent who benefits from the acquisition.

This concern is compounded where compensation cannot be agreed between the acquiring authority and the landowner. Under the *Acquisition of Land Act 1967*, disputed compensation is determined by the Land Court. However, the Bill does not clearly allocate the financial risk of a Land Court determination that exceeds the proponent's expectations. If the State is the acquiring entity and the cost recovery contract with the proponent is voluntary, there is a structural gap in the legislation regarding the ultimate liability for compensation.

The Bill requires the proponent to make a "final unconditional offer" to the registered owner before the Governor in Council may approve the regulation declaring the project as a purpose for which land may be taken. The offer must state the amount the proponent is offering to pay and include an offer to pay any reasonable costs incurred by the landowner in seeking a land valuation or legal advice. However, the offer period need only be "at least 10 business days" after the offer is given to the registered owner.

This is a remarkably short period within which a landowner is expected to obtain a valuation, seek legal advice, and make an informed decision about whether to accept an offer for the compulsory acquisition of their property. It is submitted that 10 business days is wholly inadequate for a landowner and community group, particularly in regional and remote areas where access to appropriately qualified valuers and solicitors may be limited, to properly assess a final offer before compulsory acquisition processes are initiated.

We have **enclosed** a schedule of suggested amendments to the Bill to give effect to the recommendations in this submission.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [redacted] or by phone on [redacted].

Yours faithfully

[redacted]

Peter Jolly
President

Schedule of suggested amendments to the Bill

The following sets out specific amendments proposed to be made to the Bill to give effect to the recommendations in this submission.

References are to clauses of the Bill as introduced.

Amendment 1 — Sunset clause for modification orders

Clause 22 (Insertion of new Part 5A, Division 3B)

After new section 76RQ, insert—

76RQA Expiry of modification order

(1) A modification order expires on the day that is 5 years after the day the order takes effect, unless sooner repealed.

(2) Despite subsection (1), the Governor in Council may, on the recommendation of the Minister, make a new modification order for the State strategic project if the Minister is satisfied of the matters mentioned in section 76RI(1) at the time the recommendation is made.

(3) Sections 76RI to 76RN apply in relation to the making of a new modification order under subsection (2) as if the new order were an original modification order.

Amendment 2 — Sunset clause for State significance notices

Clause 22 (Insertion of new Part 5A, Division 3A)

After new section 76RF, insert—

76RFA Expiry of State significance notice

(1) A State significance notice ceases to have effect on the day that is 5 years after the day the notice is given, to the extent it has not already taken full effect in relation to all prescribed decisions to which it relates.

(2) To remove any doubt, a prescribed decision made in accordance with a State significance notice before the notice ceases to have effect is not affected by the notice ceasing to have effect.

Amendment 3 — Narrowing criteria for State strategic project declarations

Clause 17 (Insertion of new section 76EB)

Omit new section 76EB(1), insert—

(1) This section applies if the Minister considers the undertaking of a project that is or is proposed to be a prescribed project is—

> (a) critical or essential for the State for economic, environmental or social reasons; or
>
> (b) a high priority for 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.

(1A) However, the Minister may declare the project to be a State strategic project under subsection (2) only if—

(a) a cost-benefit analysis of the project has been prepared and made publicly available; and

(b) the cost-benefit analysis demonstrates that the expected public benefits of the project outweigh the expected costs, including social and environmental costs; and

(c) the Minister has had regard to the cost-benefit analysis.

Amendment 4 — Independent environmental assessment for modification orders

Clause 22 (Insertion of new Part 5A, Division 3B)

After new section 76RI(2), insert—

(2A) Before making a recommendation to the Governor in Council under subsection (1), the Minister must—

(a) obtain a written report from the chief executive administering the *Environmental Protection Act 1994* about the potential environmental effects of the proposed modification order; and

(b) have regard to the report in forming the Minister's satisfaction under subsection (1)(c).

(2B) The report under subsection (2A)(a) must—

(a) assess whether the proposed order is likely to give rise to significant detrimental environmental effects; and

(b) if so, assess whether those effects can be effectively managed under another Act or by conditions imposed as part of the order; and

(c) be prepared within 30 business days after being requested by the Minister.

(2C) The Minister must table the report under subsection (2A)(a) in the Legislative Assembly at the same time as the modification order is tabled.

Amendment 5 — Reinstate EIS linkage with compulsory acquisition

Clause 39 (Replacement of Part 6, Division 7)

After new section 143(2), insert—

(2A) The Minister may recommend to the Governor in Council the making of a declaration under subsection (1) for a State strategic project only if the project has been the subject of—

(a) an environmental impact statement evaluated under Part 4 of this Act; or

(b) an environmental impact statement process under Chapter 3 of the *Environmental Protection Act 1994*;

and the evaluation or process has been completed.

Amendment 6 — Preserve separate RPI Act assessment function

Clause 11 (Insertion of new Part 4, Division 6D)

After new section 49L(3), insert—

(3A) Despite subsection (3), if the project involves land within—

(a) a strategic environmental area; or

(b) a priority agricultural area;

within the meaning of the *Regional Planning Interests Act 2014*, the chief executive administering that Act must separately assess the application against the assessment criteria under that Act, in addition to having regard to the Coordinator-General's report.

(3B) For the purposes of subsection (3A), the assessment criteria are the criteria that would have applied to the assessment application had it not been dealt with under this division.

Amendment 7 — Retain third-party merits review for conditions

Clause 22 (Insertion of new Part 5A, Division 3A)

Omit new section 76RF(3), insert—

(3) Subject to subsection (3A), the prescribed decision can not be reviewed or appealed against under the relevant law to the extent the decision relates to the approval.

(3A) Despite subsection (3), a person (other than the applicant) who is directly affected by a condition of the prescribed decision may appeal against the condition under the relevant law if the person would have had a right to appeal against the condition under the relevant law in the absence of the State significance notice.

Amendment 8 — Prevent modification orders excluding environmental appeals

Clause 22 (Insertion of new Part 5A, Division 3B)

After new section 76RN(3), insert—

(3A) Also, a modification order can not exclude or modify a review of, or appeal against, a decision made under any of the following Acts—

(a) the *Environmental Protection Act 1994*;

(b) the *Nature Conservation Act 1992*;

(c) the *Vegetation Management Act 1999*;

(d) the *Water Act 2000*;

(e) the *Fisheries Act 1994*.

Amendment 9 — Public notification for ICP applications

Clause 13 (Replacement of Part 5)

Omit new section 58K(6) and (7), insert—

(6) If the development application to which section 58J applies is for development that would, under the *Planning Act 2016*, have been subject to public notification—the application must be publicly notified in accordance with the *Planning Act 2016*.

(7) If the development application to which section 58J applies is for development that would not, under the *Planning Act 2016*, have been subject to public notification—the Minister must publish notice of the application on the department's website for a period of at least 15 business days and invite written submissions from any person.

(7A) The Minister must have regard to any submissions made under subsection (7) in deciding the application.

Amendment 10 — Affirmative resolution procedure for modification orders

Clause 22 (Insertion of new Part 5A, Division 3B)

After new section 76RH(3), insert—

(3A) A regulation under subsection (1) has no effect unless—

(a) it is tabled in the Legislative Assembly within 14 sitting days after it is made; and

(b) it is approved by a resolution of the Legislative Assembly within 14 sitting days after being tabled.

(3B) If the Legislative Assembly does not approve the regulation within the period mentioned in subsection (3A)(b), the regulation is taken to be repealed on the expiry of that period.

(3C) The *Statutory Instruments Act 1992*, section 50 does not apply to a regulation under subsection (1).

Amendment 11 — Annual reporting requirement

Part 2 of the Bill

After clause 56, insert—

56A Insertion of new s 158A

After section 158—

insert—

158A Annual report on exercise of powers under Part 5A

(1) As soon as practicable after the end of each financial year, the Minister must table in the Legislative Assembly a report about the exercise of powers under Part 5A during the financial year.

(2) The report must include—

(a) the number of prescribed project declarations made under section 76E; and

(b) the number of State strategic project declarations made under section 76EB; and

(c) the number and nature of State significance notices given; and

(d) the number and nature of modification orders made, amended or repealed; and

(e) the number of applications for compulsory acquisition endorsed under section 146 and, for each, whether the acquisition was completed; and

(f) an assessment of the outcomes achieved by the exercise of powers under this Part during the financial year.

Amendment 12 — Mandatory cost recovery from proponents

Clause 39 (Replacement of Part 6, Division 7)

After new section 142, insert—

142A Requirement for indemnity agreement before taking land

(1) The Coordinator-General must not take land for a State strategic project under section 125(1)(f) unless the proponent of the project has entered into a binding written agreement with the Coordinator-General under which the proponent—

(a) indemnifies the State against all costs and liabilities arising from the taking of the land, including—

(i) compensation payable to the registered owner or any other person with an interest in the land, whether agreed or determined by the Land Court; and

(ii) the Coordinator-General's costs of carrying out the acquisition; and

(iii) any other costs or liabilities reasonably incurred by the State in connection with the acquisition; and

(b) provides security for the performance of the proponent's obligations under the agreement, in an amount and form acceptable to the Coordinator-General.

(2) The agreement under subsection (1) is not a contract entered into under section 158.

(3) An agreement under subsection (1) must be entered into before the Minister makes a recommendation under section 143(2).

Amendment 13 — Extend final unconditional offer period

Clause 39 (Replacement of Part 6, Division 7)

Omit new section 153(2), insert—

(2) The offer period must be at least 60 business days after the day the final unconditional offer is given to the registered owner of the land.

Amendment 14 — Independent valuation requirement

Clause 39 (Replacement of Part 6, Division 7)

After new section 152(2), insert—

(2A) Before making a final unconditional offer under subsection (2)(a), the proponent must—

(a) obtain a valuation of the land from a registered valuer under the *Valuers Registration Act 1992* who is independent of the proponent; and

(b) give the registered owner of the land a copy of the valuation.

(2B) The cost of obtaining the valuation under subsection (2A) must be borne by the proponent.

(2C) The final unconditional offer must not offer an amount that is less than the amount of the valuation obtained under subsection (2A).

Amendment 15 — Reinstate judicial review for State strategic project declarations

Clause 23 (Amendment of section 76W)

Omit clause 23 to the extent it inserts a reference to State strategic project declarations.

Amend section 76W to insert—

(3) Despite subsection (1), a decision of the Minister to declare a project to be a State strategic project under section 76EB is not excluded from the application of the *Judicial Review Act 1991*, Part 3 or Part 5.