

# Economic Development and Other Legislation Amendment Bill 2024

## Explanatory Notes

### Short title

The short title of the Bill is the Economic Development and Other Legislation Amendment Bill 2024.

### Policy objectives and the reasons for them

According to the National Housing Accord 2022 report, Australia is facing acute housing pressure with a particular impact on availability of affordable housing. Affordable housing is critical for the wellbeing of Australians and the productivity of the Australian economy.

As part of the Commonwealth Government's response to the housing supply shortage, the National Housing Supply and Affordability Council released a report which included 11 recommendations to encourage greater institutional investment in housing. Of particular relevance to Economic Development Queensland (EDQ) is recommendation 3 which states: *'State and territory development corporations and their associated precinct planning bodies should accelerate land assembly (including through compulsory acquisition as a last resort), infrastructure provision and development approvals in areas which are suitable for large-scale intensive housing development'*.

Queensland is also experiencing significant pressure on the housing sector. As part of the Queensland Government's response to this pressure, the Queensland Housing Summit was held in October 2022. A specific action out of the Queensland Housing Summit Outcomes Report is to for EDQ to *strengthen the remit of Economic Development Queensland to deliver more housing supply across the State, including new social and affordable housing in the context of urban renewal and precincts. This will include establishing social, affordable and diverse housing as a clear purpose in Economic Development Queensland's legislation, with a focus on demonstrating to the market affordable and diverse housing for low to moderate income households. Additionally, we will seek to identify further opportunities to improve government's housing capabilities.*

Using the Queensland Housing Summit outcomes as a basis, EDQ has identified the following objectives to address the housing shortage:

- achieve an increase in housing supply, diversity of housing typologies and provision of quality social and affordable housing at scale across the State, which is informed by need.
- build the capacity of government and the housing sector to deliver social and affordable housing outcomes in a flexible manner tailored to specific opportunities.
- leverage government intervention to maximise industry capability, alternative delivery models and funding sources.
- deliver a range of housing outcomes within accelerated timescales.

- define social and affordable housing outcomes with a supporting set of quantitative targets that support broader State-wide strategy and prioritisation and in consultation with the Department of Housing, Local Government, Planning and Public Works (DHLGPPW).

Currently, EDQ's capacity to deliver on the Queensland Housing Summit Outcomes Report action is constrained by a range of governance, resourcing, commercial and operational challenges. To address these challenges EDQ has identified a new operating model which aims to:

- increase EDQ's capacity to achieve the outcomes identified above;
- establish a contemporary operating model and governance framework that will support EDQ's long term financial sustainability and performance;
- increase EDQ's capacity to respond to initiatives and challenges to deliver economic development in Queensland; and
- improve enterprise and place-based outcomes.

Moving to this model requires amendments to the *Economic Development Act 2012* (ED Act).

## Achievement of policy objectives

To achieve its objectives, the Bill proposes to amend the ED Act in the following key ways:

- *Housing supply, affordability and diversity*: create additional pathways for EDQ to facilitate delivery of social and affordable housing while aligning with government targets and priorities.
- *Investment powers*: include undertaking investment activities in property assets as a function of the Minister for Economic Development Queensland.
- *Place Renewal Framework*: establish place renewal areas to enable EDQ to lead coordinated and integrated urban renewal through a place renewal framework.
- *Amendments for operational efficiency*: implement measures to deliver operational efficiencies to Minister for Economic Development Queensland's existing functions.
- *EDQ's corporate structure*: adjust EDQ's corporate structure to optimise its broad capabilities across planning and development activities.

Under the ED Act, the Minister for Economic Development Queensland (MEDQ) is a corporation sole constituted by the Minister and the Minister refers to the Minister administering the *Economic Development Act 2012* (ED Act).

The MEDQ and Minister undertake different statutory tasks and assess particular elements of the various decision making processes under the ED Act, requiring different considerations, although both roles may be occupied by the same entity.

### Housing supply, affordability and diversity amendments

The Bill includes an amendment to the main purpose of the ED Act to include *the provision of diverse housing, including, for example social housing and affordable housing* as one of the main purposes of the ED Act. This change establishes the MEDQ's expanded remit as per the Queensland Housing Summit report to *drive new housing supply*.

An additional change to the main purpose of the ED Act introduces *the provision of premises for commercial or industrial uses* as one of the main purposes. Premises includes both buildings and land and recognises the role EDQ plays in facilitating development for commercial and industrial uses, contributing to economic development in the State. The provision of premises has also been defined to include funding, facilitation, delivery supply and ownership.

A further amendment, to clarify how the main purpose of the ED Act is achieved, provides increased focus and further recognition of cultural heritage and significant places; Aboriginal and Torres Strait Islander knowledge, culture and traditions; as well as seeking the achievement of ecological sustainability. This amendment provides greater alignment with the functions undertaken under the ED Act and the Government's commitment to promoting an inclusive, harmonious, united and sustainable Queensland. Additionally, section 4 is further amended to acknowledge the MEDQ's new role to undertake strategic leadership and coordination of place renewal areas.

The Bill addresses the current restriction on the MEDQ to enter into agreements in relation to provision of affordable housing. Currently, only the Director General of the DHLGPPW can enter into agreements with third parties, including funding bodies (both government and private) and Community Housing Providers (CHPs) to deliver social and affordable housing which restricts the State's ability to respond to the housing supply shortage.

To deliver on the new housing mandate for EDQ, the Bill gives the MEDQ the flexibility to fund, deliver, facilitate and/or supply affordable housing by providing a power for the MEDQ to enter into an agreement with a third party to develop and operate affordable housing.

This does not apply to the provision of social housing. The Bill includes a provision that if the MEDQ enters into an agreement with an entity for the purpose of providing assistance for the delivery of social housing, the agreement is taken to be a funding agreement under the *Housing Act 2003* (Housing Act), section 25, thereby requiring the approval of the Director-General under the Housing Act.

Further, the amendment specifies that entities to which MEDQ provides assistance for social housing are to be funded providers and state providers that are regulated through the Housing Act.

To enhance EDQ's ability to ensure affordable and social housing targets are met in priority development areas (PDA) and provisional priority development area (PPDA), the amendments expand the MEDQ's powers in relation to development assessment to specifically conditions for affordable and social outcomes in a PDA development approval, in line with the relevant PDA/PPDA planning instrument. However, a PDA development condition for social and affordable housing may only be imposed if the relevant development instrument (draft provisional land use plan, provisional land use plan, interim land use plan or development scheme), provides for requirements relating to social and affordable housing.

Where it is not practical or possible for a developer to deliver social and/or affordable housing to meet the requirements of the relevant PDA/PPDA planning instrument, the Bill provides alternative pathways to assist developers in meeting their obligations including:

- paying an amount in lieu of the supply of affordable or social housing which can then be directed to fund a social or affordable housing project within the local government area in which the PDA/PPDA is located; or
- enter into a voluntary housing agreement with the MEDQ.

A housing agreement prevails over a PDA development approval condition requiring payment of an amount for affordable housing or social housing, to the extent of any inconsistencies. It is anticipated that a housing agreement would be used where a developer proposes an alternative solution for the delivery of housing. The responsibilities under a housing agreement attach to the relevant land and bind the owner of the relevant land and the owner's successors in title.

To support the MEDQ's new functions and role in delivering housing, the Bill includes new definitions for social housing and affordable housing. The definition of social housing is housing provided to an individual for residential use based on eligibility requirements relating to the individual, including, for example, the income and assets of the individual. Social housing includes public housing as defined under the *Housing Act 2003* and crisis accommodation. Affordable housing is housing that is affordable to a particular type of household under criteria prescribed by regulation for the particular type of household.

The provision of infrastructure is critical to the timely development of a PDA/PPDA. Chapter 2, part 3, Division 3A includes amendments which provide for the MEDQ to have reserve powers to acquire land for the purposes of providing infrastructure to service PDAs/PPDAs. It is noted that this Division also provides for land acquisition for place renewal areas which is addressed further below.

It is intended that this power would be used as a last resort where the infrastructure is critical for development within a PDA/PPDA to occur, for example water infrastructure, transport infrastructure, parks and community facilities.

The inclusion of the land acquisition power in the ED Act recognises the role MEDQ plays in facilitating and providing infrastructure in PDAs/PPDAs. These powers are similar to powers currently exercised by local governments and utility providers who play a similar role in infrastructure planning and delivery. The processes established under the *Acquisition of Land Act 1967 (ALA)* to acquire land will be used, ensuring fair compensation to landowners where their land is impacted.

Section 20A(3) clarifies that the power to take land applies even though the taking of the land is for conferring rights or interests in the land on another entity and the entity may derive a measurable benefit from any action taken on the land. This provides the flexibility for the acquired land to be transferred to the entity who will ultimately own the infrastructure for which the land was taken. For example, where MEDQ is taking land for a local road, that land can be transferred to the relevant local government who will own and maintain the road.

The acquisition powers proposed in the legislation are limited to where the land is for providing infrastructure for the benefit of a PDA/PPDA. The MEDQ may only acquire the land where MEDQ is satisfied the acquisition is necessary for that infrastructure that benefits the PDA/PPDA and the Minister is satisfied the taking of the land is in the public interest. If the MEDQ's taking of the land is for conferring rights or interests on a third party, reasonable steps also need to have been taken to obtain the agreement of the landowner.

The amendments also provide an appropriate level of oversight and scrutiny, where the MEDQ will take the land as the constructing authority, but the Minister will be responsible under the ALA and Governor in Council must publish the taking of land notice where there is any objection to the proposed acquisition. To ensure this provision remains a reserve power, section 169 of the Act makes clear that the MEDQ cannot delegate the land acquisition powers.

#### Investment activities property assets

The Bill amends section 13 of the ED Act relating to the MEDQ's functions to include that a function of the MEDQ is to undertake investment activities in property assets to facilitate economic development and development for community purposes. This provision signals the MEDQ's intention to undertake investment activities to enable the long-term ownership and management of a property asset portfolio across a range of property asset classes but in a manner that does not fetter the Treasurer's powers under the *Statutory Bodies Financial Arrangements Act 1982* (SBFA).

MEDQ, with appropriate approvals under the SBFA, will be able to form investment vehicles, with each investment structure varying depending on its purpose but will be subject to the main purpose of ED Act. Assets (or returns from the investment) may be recycled back into the investment vehicle or transferred to the Economic Development Fund.

#### Place renewal area and place renewal framework

Place Renewal Areas are a new concept being introduced into the *Economic Development Act 2012*. The declaration of a Place Renewal Area within an existing Priority Development Area (PDA) or on PDA-associated land will allow the Minister for Economic Development Queensland (MEDQ) to take a place-making and leading coordination role across a precinct.

The purpose of Place Renewal Areas is to bring together government, community, and industry stakeholders to deliver thriving and sustainable precincts that will generate increased social, environmental, and economic value.

Place Renewal Areas will give EDQ leadership and coordination of key locations within a PDA. They will ensure the Queensland Government achieves its vision and optimises its investment for an area through collaboration, enhanced integration, and facilitating development and placemaking that aligns with Queensland Government priorities.

The amendments provide the MEDQ with the power to declare a Place Renewal Area where the planning and development of the proposed area involves, or is likely to involve, a State interest and action should be taken by the MEDQ to give effect to that interest. The MEDQ must consult with the relevant local government prior to declaring a Place Renewal Area.

At the same time as, or within 12 months after the declaration, the MEDQ must prepare a Place Renewal Framework (Framework) which is a statutory document intended to guide the activities within the Place Renewal Area. The Framework will set out the vision, objectives and outcomes for the Place Renewal Area and must include an implementation plan outlining how these will be achieved. Each Framework will address the challenges and opportunities relevant to the Place Renewal Area.

The Bill provides that in preparing the Framework, the MEDQ must have made reasonable endeavors to consult with the relevant local government, state government entities, or other entity that the MEDQ considers may be affected by the Framework.

The declaration of a Place Renewal Area and commencement of a Framework will not replace or duplicate the statutory planning processes under a PDA. The relevant planning instrument (i.e. PDA development scheme) will continue to regulate land use matters within a declared area. The Place Renewal Area and Framework will complement the existing planning instruments by addressing matters, which are critical for a successful place, and cannot be addressed through the planning framework.

A Place Renewal Area also does not replace accountability, funding, or parties responsible for the delivery of individual projects or disrupt existing commercial agreements. Parties remain accountable for delivering individual projects while ensuring they align with the Framework.

A new directions power has been included which enables the MEDQ to direct a government entity, distributor-retailer or local government to provide information and assistance if required for the Place Renewal Area. The Bill makes explicit that this does not include the provision of funds or other assets to the MEDQ. Any information received will be governed by the privacy provisions contained in section 163 of the ED Act.

The Bill includes a provision to enable the MEDQ to acquire land, where the acquisition is necessary to give effect to a Framework within a Place Renewal Area. This could include the strategic amalgamation of land where that land is critical for achieving the objectives of the Framework. In urban areas land fragmentation can create issues for the efficient delivery of infrastructure and can impact the ability to accommodate future urban development and unlock the value of strategic sites.

It is intended that this power will be a reserve power to be used to acquire land where needed to facilitate economic growth, boost housing supply, and/or deliver key public facilities or for other community purposes for the Place Renewal Area. The processes established under the ALA to acquire land will be used, ensuring fair compensation to landowners where their land is impacted.

This proposal also aligns with Commonwealth Government's response to the housing supply shortage that state and territory development corporations and their associated precinct planning bodies should *accelerate land assembly (including through compulsory acquisition as a last resort), infrastructure provision and development approvals in areas which are suitable for large-scale intensive housing development.*

As with the land acquisition powers for infrastructure, the power to take land in a Place Renewal Area applies even though the taking of the land is for conferring rights or interests in the land on another entity and the entity may derive a measurable benefit from any action taken on the land. These powers, in relation to land acquisition in Place Renewal Areas, provides for the MEDQ to be able to deliver on State government priorities (such as delivery of affordable and social housing) and transfer these assets to the appropriate long-term owner and manager where required.

The acquisition powers for Place Renewal Areas sufficiently balances the rights of individual landowners against the needs of MEDQ by defining the power to acquire land narrowly as *to give effect to a place renewal plan within a place renewal area*.

The MEDQ may only acquire the land where MEDQ is satisfied the acquisition is necessary for that infrastructure that benefits the PDA/PPDA and the Minister is satisfied the taking of the land is in the public interest. If the MEDQ's taking of the land is for conferring rights or interests on a third party, reasonable steps also need to have been taken to obtain the agreement of the landowner. To ensure this provision remains a reserve power, section 169 of the Act makes clear that the MEDQ cannot delegate the land acquisition powers.

The amendments also provide that if a landowner objects to the land being taken and the MEDQ believes they still require the land as the constructing authority, the MEDQ may apply to the relevant Minister for the land to be taken. If the Minister is satisfied that the proposed resumption should proceed, they may refer the matter to the Executive Council to have a taking of land notice published in the Queensland Government Gazette.

Where a PDA development application is being assessed in a Place Renewal Area against the relevant planning instrument, the Framework and any advice sought by the MEDQ relating to the Framework, becomes a consideration in the assessment process. This promotes Framework matters to be considered and incorporated into future development within a Place Renewal Area, where relevant.

Similarly, the Framework becomes a consideration in the assessment of an infrastructure designation under section 36 of the *Planning Act 2016*.

### Operational efficiency measures

#### *Directions powers*

Distributor-retailers in certain local government areas control water and sewer infrastructure which is fundamental to unlocking development in PDAs and PPDA's. The MEDQ's current directions powers under sections 127 and 128 of the ED Act enable the MEDQ to direct government entities and local governments to accept, provide or maintain critical infrastructure. This Bill clarifies that these powers include distributor-retailers to support development within a PPDA or PDA.

Further provisions have been included in section 128 which outline that where an action required to be done under the direction would usually require a water approval, the action can be done without a water approval. This provision is primarily to address the issue of inconsistencies in PDA development approvals being granted under the ED Act and water approvals under the *Southeast Queensland Water (Distribution and Retail Restructuring) Act 2009* for the delivery of water and sewer infrastructure.

In recognition of the significance of these directions powers, the Bill establishes the process for sections 127 and 128 to give the directed entity the opportunity to raise concerns or other issues relating to a proposed direction. This provides the entity with an opportunity to respond to the matters being raised by the MEDQ before the MEDQ makes a decision as to whether to issue a directions notice. Further, if the MEDQ decides to continue with the direction, the MEDQ must include an explanation of how any concerns or other issues raised by the entity have been considered.

A further directions power has been included in the Bill to enable MEDQ to direct a government entity, local government and distributor-retailer to provide information, which is essential for proper and orderly planning, development and management of a PDA/PPDA or PDA-associated land. This information will enable the MEDQ to undertake effective and efficient planning with a full understanding of all matters impacting development in the area. It is important that such information is provided in a timely manner so the MEDQ can undertake land use and infrastructure planning within an appropriate timeframe. Any information received will be governed by the privacy provisions contained in section 163 of the ED Act

#### *Infrastructure charges*

The MEDQ is responsible for coordinating the delivery of infrastructure to service a PDA/PPDA. However, in some circumstances infrastructure charges will be collected by a local government or a distributor-retailer after a PDA/PPDA is declared for a development application lodged before the PDA was declared and approved after the PDA declaration. As those infrastructure charges will contribute to the delivery of infrastructure in the PDA, the MEDQ may issue a direction to a local governments or distributor-retailer to provide relevant charges they have collected to the MEDQ.

The direction is limited to:

- applications lodged with a local government and/or distributor-retailer prior to a PDA declaration but approved after the declaration is made; or
- Change to approvals (except for a minor change to approvals), regardless of whether the original approval was given before or after the PDA was declared. However, if infrastructure charges were paid prior to the change approval being given in relation to an approval given before the PDA was declared, those charges cannot be redirected to the MEDQ.

These limitations are intended to capture development approvals and water approvals which are transitioning from a local government planning and distributor-retailer regime into a PDA regime.

#### *Fees and charges for services*

A key aspect of EDQ's revised operating model is providing for EDQ's on-going financial sustainability so it can continue to deliver outcomes for Queenslanders. In recognition of that s15 of the ED Act is being amended to change the requirement that the MEDQ must act on a commercial basis, to the MEDQ must, to the extent practicable carry out its functions in a way that facilitates the long-term financial sustainability of the MEDQ. One area of focus for this long-term financial sustainability is the fees and charges that the MEDQ can apply.

Currently EDQ does not recover the cost of the full range of services that it provides, impacting on its long-term financial sustainability. The Bill includes new provision under s10 that the MEDQ may provide services relating to its functions and charge fees for the services. This could include non-regulatory advisory services that EDQ provides from time to time but does not currently charge for under existing arrangements.

### *Enforcement action*

Chapter 3 Part 5 of the ED Act currently provides the framework for enforcement notices and orders with respect to development offences. However, clarification is required on the MEDQ's powers to remedy any offence if a person fails to comply with an enforcement notice given by the MEDQ. An amendment is proposed to allow the MEDQ to take the remedial action if needed and recover the cost of taking that action.

As an EDQ officer in these instances would be acting in a manner similar to a local government officer in seeking to take the action required under the enforcement notice where a person has failed to comply with that notice, a provision has been added to allow authorised employees or agents under the ED Act the same ability as a local government officer under the *Local Government Act 2009*, to enter the land where the action is required to be taken without the permission of the occupier or landowner.

In those instances, the occupier of the land must be given at least 7 days' notice before entering and on arrival at the property must do everything reasonable to seek the occupiers consent to come onto the land. If they do come onto the land without the permission of the occupier, the authorised employee or agent is not allowed to enter any home on the land.

### *Amendments and extensions to planning instruments*

Under existing arrangements, there is no ability to quickly amend a planning instrument (an ILUP, a PLUP or a development scheme) to deal with any urgent and emergent circumstances that may impact on a PDA or PPDA.

For example, urgent planning amendments required after a major weather incident or in response to a significant event such as a pandemic. An ED Act amendment included in the Bill allows for the making of a temporary planning instrument which can be made when the MEDQ considers:

- there is a risk, or potential risk, of serious adverse cultural, economic, environmental or social conditions happening in the relevant area for the affected instrument; or
- for an interim land use plan or development scheme—it is necessary or desirable to align the affected instrument with the Framework for a Place Renewal Area in the relevant area.

A temporary planning instrument would apply on a temporary basis, up to 2 years, until it is no longer required or until the ordinary process for the preparation or amendment of a planning instrument is undertaken to deal with the matter on a long-term basis, if required.

For operational efficiency, the Bill includes a provision that an ILUP can be extended for up to 12 months where it is considered by the MEDQ to be the appropriate instrument to continue regulating a PDA while a development scheme is being prepared. This removes the need to prepare a new ILUP when the previous ILUP has expired. Further, an amendment is proposed to enable the MEDQ to make a minor administrative amendment to an ILUP. This aligns with existing provisions in the ED Act in relation to PLUPs and development schemes.

### *PDA's and broader planning priorities*

The declaration of a PPDA or PDA is a critical land use planning decision. An amendment is proposed requiring the MEDQ to consult with the Planning Minister prior to the making of a declaration regulation for a PDA or PPDA to ensure that this aligns with the government's planning priorities.

It is also proposed to amend the ED Act to include State planning instruments as a matter for the MEDQ to have regard to in making a PDA or PPDA. State planning instruments protect or give effect to state interests in planning decisions and are a relevant consideration for the MEDQ in deciding whether to make a PDA or PPDA declaration.

### *MEDQ may consult*

Currently, the ED Act does not explicitly provide for the MEDQ to seek advice from any third party in assessing and deciding a PDA development application. Operationally, the MEDQ often uses a design panel in the assessment process for large and complex PDA development applications.

The proposed amendment is to clarify, within the ED Act, that the MEDQ may seek advice from any third party (body or person) in assessing and deciding a PDA development application. The amendment also clarifies that the MEDQ is not required to consult with anyone.

### EDQ's corporate structure

To effectively deliver EDQ's objectives there is a requirement to change EDQ's organisational structure to establish a contemporary governance framework, a robust resource plan, and an adaptive operating model.

The amendments provide for:

- continuation of the Corporation Sole constituted by the Minister but a separation of operational functions from the Department of State Development and Infrastructure
- appointment of a Chief Executive Officer (CEO) and an independent Board comprising the Chief Executive of the department accountable for the MEDQ's portfolio responsibilities, the Under-Treasurer and up to six non-government members with expertise relevant to the work that EDQ undertakes. The non-government members will be appointed for four years, with expertise relevant to EDQ's portfolio.
- All powers under the Act remain vested in the MEDQ but may be delegated to the Board, with the exception of any decision that may relate to the MEDQ's regulatory functions, and any exemptions stated in section 169 of the ED Act

The Board is required to prepare and submit a strategic plan and an operational plan to the Minister for approval which specifies financial and non-financial performance targets for its activities for the relevant financial year. The strategic plan, excluding any commercially sensitive matters, will be published on the MEDQ's website in accordance with the Queensland Government Performance Management Framework Policy.

The strategic plan must include:

- an outline of the MEDQ's objectives and intended outcomes, the nature and scope of the activities proposed to be undertaken by the MEDQ during the relevant financial year;

- key performance indicators related to the main purpose of the ED Act;
- MEDQ's capital structure, annual budget and annual forecast of revenue;
- an outline of the activities proposed, and borrowings made, and proposed to be made, by the MEDQ;
- an outline of the policies adopted by the MEDQ to minimise and manage any risk of investments and borrowings that may adversely affect its financial stability as well the MEDQ's policies and procedures relating to the acquisition and disposal of major assets;
- an outline of the MEDQ's policies for minimising managing any risk of investments and borrowings that may adversely affect its financial sustainability.

To ensure the Minister is satisfied with the strategic and operational plans, the Bill also provides that the Minister may return the draft statement plans to the Board and request it to consider or further consider any matter in the draft statement and revise the draft statement plan in the light of this consideration. Further, the Board may only modify the plans with written agreement by the Minister. Similarly the Minister may direct the Board to modify the plans.

The Bill also provides that the Board must report to the Minister quarterly on the MEDQ's operation and keep the Minister informed on the performance of MEDQ's operations as well as immediately inform the Minister on matters which may affect the achievement of the MEDQ's strategic objectives or the MEDQ's performance in delivering on the operational plan

The Bill provides for the MEDQ to recommend to the Minister the amount of dividend required to be paid for each financial year for the Minister's approval. The Bill includes a provision for the Minister to give a direction to MEDQ to pay a dividend of a different amount, however this amount can be no more than the amount allowed to be paid by a company under the Commonwealth's Corporations Act. The Bill also provides that the Minister may give the MEDQ a written direction about the payment or transfer of an asset or liability.

A new employing office will be established, with arrangements similar to other state government entities including South Bank and Resources Health and Safety Queensland. All EDQ staff (except the CEO) will become employees of the employing office and will remain employed under the *Public Sector Act 2022*. All EDQ staff transitioning to the employing office, (and any future staff) will keep all rights and entitlements under the Queensland Public Service Officers and Other Employees Award—State 2015. A further provision has been included that they remain subject to the State Government Entities Certified Agreement 2023.

An executive officer will be appointed by the Governor in Council to manage the EDQ employing office and will be appointed under the ED Act. A provision has been included in the legislation to allow the executive officer to be the same person as the CEO. The remuneration of the CEO and the executive officer (if a person other than the CEO is appointed) will be determined as part of the formal appointment process and approved by the Governor in Council. The duties of the executive officer and the CEO will also be determined through the appointment process to ensure there is no overlap or duplication of responsibilities.

## **Alternative ways of achieving policy objectives**

There are no alternative ways of achieving the policy objectives.

## Estimated cost for government implementation

The cost for government implementation of the Bill will be met by EDQ. Currently, EDQ is a self-funded entity and it is proposed to continue to be self-funded under EDQ's revised operating model including all transitional and on-going costs.

Where EDQ is delivering on Government priority projects EDQ will seek Government funding for those projects and the associated costs.

## Consistency with fundamental legislative principles

The Bill has been drafted having regard to the fundamental legislative principles in the *Legislative Standards Act 1992* (LSA) and is generally consistent with these principles. Potential breaches of the fundamental legislative principles are addressed below.

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review – section 4(3)(a) of the LSA.

The ability of the MEDQ to declare a Place Renewal Area and to make a Place Renewal Framework (Framework) for the area raises the principle in section 4(3)(a) of the LSA, because a Framework is a matter that must be considered when deciding a PDA development application. However, the provisions in the Bill are drafted to clearly identify the basis on which a Place Renewal Area is to be declared and the purpose and content of a Framework and the declaration is subject to judicial review on the application of a person with sufficient standing under the *Judicial Review Act 1991*.

Similarly, the power to impose conditions on PDA development approvals for the provision of types of housing also raises this principle. However, the nature of the power is clearly defined and, in exercising the power, the MEDQ must consider the documents which regulate development in the relevant PDA (such as the development scheme, any applicable Framework). The fact that there are no appeal rights in relation to conditions imposed on PDA development approvals is consistent with the current scheme of the ED Act.

The introduction of a compulsory acquisition power in the ED Act will also raise this principle. However, the circumstances in which the MEDQ can exercise the power to compulsorily acquire land is defined in the Bill and is subject to review. Relevantly:

- The Bill balances the rights of individual landowners against the needs of the MEDQ by defining the power to acquire land narrowly, limiting it to taking land for:
  - providing infrastructure for the benefit of a PDA; or
  - to give effect to a place renewal framework within a place renewal area.
- The Bill provides that place renewal areas can be declared for land in a PDA (other than a provisional PDA) or land subject to PDA-associated development.
- PDA-associated development is development that is declared to be PDA-associated development for a PDA under s 40C(1) of the ED Act or identified as PDA-associated development for the PDA in the relevant development instrument for the area. Development instruments for PDAs are made under the ED Act.

- So, the power in the Bill given to MEDQ relates to land which is either for the benefit of a PDA, in a PDA (other than a provisional PDA) or land subject to PDA-associated development.
- Since:
  - PDAs are declared by regulation under section 37(1) of the ED Act; and
  - the main purpose of the ED Act is to facilitate economic development (section 3 of the ED Act), which is achieved by providing a streamlined planning and development framework for PDAs (section 4(b) of the ED Act).
- Parliament will have already considered whether development should be facilitated in the relevant PDA before the MEDQ would exercise the power to compulsorily acquire land under the ED Act, through the provisions in the *Statutory Instruments Act 1992* relating to the tabling and disallowance procedures for statutory instruments
- The provisions relating to the compulsory acquisition of land which are to be inserted in the ED Act adopt the process set out in the ALA for the taking of land and the payment of compensation.
- The process in the ALA (see section 9(7)) requires that where there are no objections to the proposed taking of land, the relevant Minister can by gazette notice declare that the land specified in the notice is taken. If there are objections to the proposed taking of land, section 9(6) of the ALA requires that the Governor in Council declare by gazette notice that the land specified in the notice is taken for the purpose mentioned in the notice.
- The function of the relevant Minister is to assess the application to take land before deciding whether to publish a gazette notice or request that the Governor in Council do so. This provides a level of review.
- The Bill provides a sufficient delineation between the MEDQ acting as constructing authority and the Minister administering the ED Act acting as the relevant Minister for the purposes of the process for compulsory acquisition under the ALA. In this regard, the Bill includes provisions which:
  - provide that the Economic Development Board (Board) will decide the objectives, strategies and policies to be followed by MEDQ (clause 20 of the Bill);
  - provide that the Board is required to prepare a draft strategic plan and operational plan and submit them to the Minister (the proposed section 32E in the Bill) and the proposed section 32F in the Bill provides for the Minister to issue a direction to the Economic Development Board to modify the strategic plan or operational plan.
  - In any case, the compulsory acquisition process requires the Governor in Council to publish the taking of land notice for proposed acquisitions where there has been an objection received. This provides a level of scrutiny over proposed acquisitions which are contested by the owner of the land in question.
- The compulsory acquisition process requires the Governor in Council to publish the taking of land notice for proposed acquisitions where there has been an objection received. This provides a level of scrutiny over proposed acquisitions which are contested by the owner of the land in question.
- Further, a failure to undertake the process in accordance with the ALA would leave the validity of a compulsory acquisition of land susceptible to challenge under either the *Judicial Review Act 1991* or the jurisdiction of the Supreme Court of Queensland to make declarations and consequential orders. This is consistent with all other legislation in Queensland which provides for the compulsory acquisition of land.

The provisions in the proposed new chapter 3, part 3A in the Draft Bill, which will give the MEDQ the power to make temporary planning instruments that affect the operation of a provisional land use plan, an interim land use plan or a development scheme for a PDA also raise the principle in section 4(3)(a) of the LSA, because the provisions do not provide for any review of the power to make a temporary planning instrument. However, this is justifiable for the following reasons:

- The MEDQ is given the power to make temporary planning instruments in limited circumstances, being where the MEDQ:
  - considers there is a risk or potential risk of serious adverse cultural, economic, environmental or social conditions happening in the relevant area for an affected instrument; and
  - is satisfied that it is necessary or desirable to immediately affect the operation of the affected instrument in the way stated in the temporary planning instrument for the above reasons.
- A temporary planning instrument has a limited duration, and expires on the earliest of the following:
  - the day that is 2 years after the day it commences;
  - a day of expiry stated in it; or
  - a day on which the affected instrument expires or is repealed.
- This means that it would be necessary to amend the affected instrument to reflect the content of the temporary planning instrument prior to the expiration or repeal of the temporary planning instrument. Public consultation is required for the preparation of development scheme for PDAs.

While transitional provisions in the Bill protect the rights of public service employees who work for the EDQ employing office, there are no corresponding protections if a public service employee is appointed as the CEO or executive officer of the EDQ employing office. The absence of such protections raises the principle that legislation should have sufficient regard to the rights of individuals. It is not considered that the absence of such protections is inconsistent with this principle, because the offices of CEO and executive officer of the EDQ employing office are senior roles, and a public service employee would be acting freely in accepting an appointment to one of these roles. In any case, any inconsistency is justified because:

- the purpose of not expressly preserving the rights of public service employees appointed as CEO or executive officer of the EDQ employing office is to avoid any unintended consequences that may result if there is inconsistency between continuing rights and the employment conditions under the person's instrument of appointment; and
- the instrument of appointment of a person to one of the roles in question can deal with the preservation of a public service employee's rights, which therefore allows for the consideration of the circumstances of the appointee.

Legislation should provide for the compulsory acquisition of property only with fair compensation – section 4(3)(i) of the LSA.

The insertion in the ED Act of provisions which give the MEDQ the power to compulsorily acquire land will raise the principle in section 4(3)(i) of the LSA.

Legislation in Queensland that confers a power on an entity to compulsorily acquire land does so by either:

- prescribing the entity to be a constructing authority for the purposes of the ALA (whereby the process for acquisition and the payment of compensation in the ALA must be followed); or
- adopting by reference the process for the taking of land and the payment of compensation in the ALA.

The proposed section 20A(4) to be inserted into the ED Act adopts by reference the process under the ALA for the taking of land and the payment of compensation for the taking of land, as if the land were being taken under the ALA by a constructing authority.

The process for the payment of compensation would include the assessment of compensation under section 20 of the ALA. Accordingly, landowners from whom land is taken under the ED Act would be fairly compensated for the purposes of section 4(3)(i) of the LSA.

## **Consultation**

Consultation has occurred with State Government agencies.

Targeted stakeholder consultation including with local government peak bodies, utility providers, housing peak bodies and industry peak bodies occurred on the policy intent of the Bill through stakeholder meetings held between 29 January to week commencing 19 February 2024.

## **Consistency with legislation of other jurisdictions**

The Bill is specific to the State of Queensland and is not uniform with legislation of the Commonwealth or another state.

## **Notes on provisions**

### **Part 1 Preliminary**

#### **Clause 1 Short title**

Clause 1 provides that this Act may be cited as the *Economic Development and Other Legislation Amendment Act 2024*.

#### **Clause 2 Commencement**

Clause 2 provides for this Act to commence on 1 July 2024

## Part 2 Amendment of Economic Development Act 2012

### Clause 3 Act amended

Clause 3 provides that this part and schedule 1 amends the *Economic Development Act 2012*.

### Clause 4 Replacement of ss 3 and 4

Clause 4 amends Sections 3 and 4 of the Act, expanding its primary objectives.

Section 3 (Main purpose of Act) outlines the main purpose of the Act, which is to facilitate various outcomes in the State, including economic development, development for community purposes, the provision of diverse housing (encompassing social and affordable housing), and the provision of premises for commercial or industrial uses.

In this context, 'diverse housing' is defined in Section 3(2) as a range of housing to meet various community needs, considering factors such as size, type, price, built form, density, cost, adaptability, and tenure.

The term 'provision' of diverse housing or premises in this section includes the funding, facilitation, delivery, supply, and ownership of the housing or premises.

Section 4 (How main purpose is primarily achieved) provides how the primary objectives of the Act are principally achieved, specifying the following:

1. Establishment of the Minister of Economic Development Queensland (MEDQ) to plan, execute, promote, or coordinate activities that facilitate the Act's main purposes in the State. In doing so, MEDQ is to seek the achievement of ecological sustainability; value, protect, and promote Aboriginal and Torres Strait Islander knowledge, culture, and tradition, and recognise the cultural heritage significance of places.
2. Provision for a streamlined planning and development framework in specific parts of the State, declared as PDAs under the Act.
3. Providing for MEDQ to undertake strategic leadership and coordination in designated place renewal areas, ensuring a comprehensive approach to revitalising these areas.

Subsection 4(3) provides definitions for key terms used in the section:

- ***Cultural heritage significance, of a place:*** Refers to the aesthetic, architectural, historical, scientific, social or other significance of a place to the present generation or past and future generations.
- ***Ecological sustainability:*** Describes a balance that integrates the protection of ecological processes and natural systems at local, regional, State and wider levels with economic development. It also ***emphasizes*** the maintenance of the cultural, economic, physical, and social well-being of people and communities.

## **Division 1 General**

### **Clause 5 Insertion of new ch 1, pt 2, div 1, hdg**

Clause 5 inserts a new heading within Chapter 1 titled "Division 1 General".

## **Division 2 Key concepts for housing**

### **Clause 6 Insertion of new ch 1, pt 2, div 2**

Clause 6 provides for a new section to under Chapter 1, Part 2, titled 'Division 2 Key concepts for housing'.

New section 7A introduces the definition of 'social housing', which refers to housing provided to an individual for residential use, determined based on eligibility requirements related to the individual's income and assets (as an example). Social housing includes public housing under the *Housing Act 2003*, section 8(4), and crisis accommodation.

Social housing does not include affordable housing.

Subsection 7A(3) defines the term 'eligibility requirements' in this context as conditions prescribed under the *Housing Act 2003*, section 33(1), specifically pertaining to the provision of housing services for which a funded provider under the *Housing Act 2003* receives funding.

Subsection 7B introduces the definition of 'affordable housing' which is housing that is affordable to particular types of household under criteria prescribed by regulation for the particular type of household.

## **Part 3 Application of *Housing Act 2003***

### **Clause 7 Insertion of new ch 1, pt 3**

Clause 7 introduces a new chapter that describes how this Act interacts with the *Housing Act 2003*.

New section 7C (Purpose of part) provides that the purpose of this part is to ensure that entities receiving assistance from MEDQ for providing social housing are regulated under the *Housing Act 2003* in the same way entities which the chief executive under the *Housing Act 2003* provides assistance to for providing a social housing service are regulated under the *Housing Act 2003*.

Subsection (2) clarifies the term *social housing service* is the same as provided for in the *Housing Act 2003* section 8(2).

New section 7D (When MEDQ may provide assistance to entity) provides for the MEDQ to provide assistance to an entity for the purpose of providing social housing other than public housing and crisis accommodation.

MEDQ is able to provide assistance only if the entity seeking support is a registered provider under the *Housing Act 2003*, schedule 4 or an *exempt provider under the Housing Act 2003*, schedule 4 and if the chief executive under the *Housing Act 2003* has consented to MEDQ providing assistance to the entity.

New section 7E (Agreement entered into by MEDQ taken to be funding agreement under *Housing Act 2003*) applies if the MEDQ enters into an agreement with an entity for the purpose of providing the entity assistance for the provision of social housing.

The agreement is taken to be a funding agreement under the *Housing Act 2003*, section 25, and the assistance is taken to be funding under the *Housing Act 2003*, section 21(1).

The entity to which the assistance has been provided is taken to be a funded provider under the *Housing Act 2003*, section 21(2).

New section 7F (Asset for which MEDQ provides assistance taken to be community housing asset under *Housing Act 2003*) which provides for when an entity acquires an asset using assistance from the MEDQ for the purpose of providing social housing.

If the entity is recognised as a state provider or a national provider under the *Housing Act 2003*, the asset is respectively taken to be a state or national community housing asset under the same schedule.

New section 7G (Application of *Housing Act 2003*) provides that the *Housing Act 2003* is still applicable to an entity receiving assistance from MEDQ for the provision of social housing under this Act. The entity must adhere to the housing service requirements specified in the *Housing Act 2003*, section 33.

The registrar under the *Housing Act 2003* is empowered to take actions against the entity, for example cancelling the entity's registration and powers under the *Housing Act 2003*, Part 4A, division 4. Further than a power under the *Housing Act 2003* part 7, may be exercised against the entity.

New section 7H (CEO may disclose information to chief executive under *Housing Act 2003*) provides for the CEO of MEDQ to share information acquired under this Act with the chief executive under the *Housing Act 2003*.

The CEO may disclose this information if they are satisfied such disclosures would assist in the performance of the functions of the chief executive, the registrar, or an authorised officer under the *Housing Act 2003*.

## **Clause 8 Amendment of s 10 (Legal capacity)**

Clause 8 amends section 10(1) to empower the MEDQ to provide services relating to its functions and to charge fees relating to those services.

### **Clause 9 Amendment of s 11 (Application of other Acts)**

Clause 9 amends section 11 to provide that MEDQ is considered a unit of public administration under the *Crime and Corruption Act 2001* and a statutory body under the *Statutory Bodies Financial Arrangements Act 1982* and the *Financial Accountability Act 2009*.

The interaction of MEDQ's powers under this Act with the *Statutory Bodies Financial Arrangements Act 1982* is detailed in part 2B of that Act.

### **Clause 10 Amendment of s 13 (MEDQ's functions)**

Clause 10 amends section 13 of the legislation to clarify MEDQ's functions.

Amended section 13 provides that the primary function of MEDQ is to carry out the main purpose of the Act.

Section 13(2)(e) has been added to the MEDQ's functions to include undertaking investment activities in property assets to facilitate economic development and development for community purposes.

### **Clause 11 Replacement of ch 2, pt 3, hdg (Matters about dealing in land or other property, or the provision of infrastructure)**

Clause 11 amends the existing heading of Part 3 from 'Matters about dealing in land or other property, or the provision of infrastructure' to Special powers relating to dealings and infrastructure'.

### **Clause 12 Amendment of s 14 (Purpose of pt 3)**

Clause 12 amends section 14 to expand MEDQs powers and other matters to capture all the functions mentioned in section 13(2) which include dealing in land or other property; coordinating the provision of, or providing, infrastructure and other services; planning for, and developing and managing land in or for, priority development areas (PDAs); deciding PDA development applications under this Act and undertaking investment activities in property assets to facilitate economic development and development for community purposes.

### **Clause 13 Replacement of s 15 (MEDQ to act commercially)**

Clause 13 amends section 15 to require MEDQ to undertake its activities in such a manner that supports its long-term financial sustainability.

### **Clause 14 Amendment of s 17 (Dealing in land or other property generally)**

Clause 14 refines the language in section 17 related to MEDQ's dealings in land or other property. The amendment ensures that all actions related to land acquisition, development, and disposal align with the main purpose of the Act.

Amended Section 17 grants MEDQ the authority to deal with land or property in various ways to support the main purpose of the Act. This includes acquiring land or property to facilitate the Act's objectives, developing land with infrastructure contributions or provisions to align

with the Act's main purpose, and disposing of or leasing land to another entity for development aligned with the Act's goals. The provision ensures that all actions related to land dealings directly contribute to fulfilling the primary objectives of the legislation.

## **Division 3A Acquisition of land**

### **Clause 15 Insertion of new ch 2, pt 3, div 3A**

Clause 15 inserts a new Division 3A to provide the circumstances in which MEDQ can acquire land.

Section 20A(1) (When MEDQ may take land) provides that MEDQ can compulsorily acquire land under two circumstances – for providing infrastructure for the benefit of PDAs or implement a place renewal framework within a place renewal area.

New section 20A(2) provides that MEDQ can only take the land if it is satisfied it is necessary for the reasons mentioned in s20A(1) and the Minister is satisfied the taking of land is in the public interest.

Section 20A(3) provides that MEDQ can take land for the purposes in s20A(1), even if it involves conferring rights or interests in the land to another entity. Additionally, an entity may benefit from any actions taken on the land to facilitate a purpose mentioned in 20A(1). It also provides that MEDQ may take as required land for a purpose mentioned in 20A(1) or another purpose that is incidental to a purpose under 20A(1).

Section 20A(4) provides that if the taking of land confers rights or interests on another entity, MEDQ must first take reasonable steps to obtain the agreement of the owner of the land to actions on the land that would facilitate the purpose of the land being taken.

Section 20A(5) prescribes that the process for taking land under the *Acquisition of Land Act 1967*, including the payment of compensation for taking land, apply in this section as if the land were being taken under the *Acquisition of Land Act 1967* by MEDQ as the constructing authority, and the Minister as the relevant Minister under the *Acquisition of Land Act 1967*.

Section 20A(6) clarifies that the *Acquisition of Land Act 1967* is to be read with the modifications necessary to give operation and effect to subsection (5).

Section 20A(7) provides that the taking of land under this section is not a taking of land *Acquisition of Land Act 1967*.

Section 20B (Power to take easements and other interests) provides MEDQ the ability to take land for a purpose mentioned in section 20A(1) which includes the power to take an easement or another interest in land, either above or below the surface, without owning the surface rights. MEDQ also has the power to take a lease of State land or another interest in State land.

Section 20B(2) and (3) provide that if MEDQ intends to resume a lease or another interest in State land that is less than freehold, they must issue a notice of intention and file a copy of that notice in the appropriate land register according to the *Land Act 1994*. If MEDQ changes or

stops the resumption process mentioned in (2), MEDQ must file a notice about the change or stoppage in the register.

Section 20B(4) clarifies that provisions within this section and the process outlined in the *Acquisition of Land Act 1967* for the taking of land and compensation apply to the easement or other interest mentioned in (1), as of the easement or other interest were land.

Section 20B(5) clarifies that the *Acquisition of Land Act 1967* must be read with and subject to the modifications and adaptations necessary in, subsections (2), (3), and (4) to give operation and affect to those subsections.

Section 20B(6) clarifies that taking land under this section is not a taking land under the *Acquisition of Land Act 1967*.

Section 20B(7) defines the term *easement* to include a public utility easement under the Land Act or the Land Title Act.

Section 20C (Relationship with native title legislation) addresses the relationship with native title legislation in the context of taking land under section 20A and the payment of compensating for the land taken.

20C(1)(a) provides that the procedures mentioned in section 20A(5) must be carried out in a way that is consistent with the *Native Title (Queensland) Act 1993* and the *Native Title Act 1993* (Cwlth).

20C(1)(b) provides that if the *Native Title (Queensland) Act 1993* or the *Native Title Act 1993* (Cwlth) sets a process for taking or compensating for land that is in addition to the process stated in the *Acquisition of Land Act 1967*, the additional process also applies.

20C(1)(c) clarifies that the Land Court is the independent authority for the *Native Title Act 1993* (Cwlth) section 24MD(6B).

20C(2) clarifies that this Act is a compulsory acquisition Act under the *Native Title (Queensland) Act 1993*, section 144(4).

Section 20D (Vesting of land taken under s 20A) subsection 1 provides that when land is taken under section 20A, it is vested in the entity stated in the gazette resumption notice for the taking of the land on the day the notice is published. This may be the MEDQ or a third party, for example a distributor retailer, local government or non-government entity.

20D(2) provides that if the land taken under section 20A is a lease of State land or another interest in State land that is less than freehold, the land is vested as an estate in fee simple, meaning the land is conferred as freehold to the entity the land is vested in.

20D(3) provides that land mentioned in subsection (2) is subject to the reservations and conditions that are authorised or required by the *Land Act 1994*.

Section 20E (Power to use, lease or dispose of land) provides MEDQ with the power to use, lease or dispose of land acquired under 20A to give effect to the purposes for taking the land under s20A. This includes leasing out or agreeing to lease the land taken, or proposed to be taken; signing an agreement for works or development to be carried out on the land, or selling the land, or agreeing to sell the land to be taken.

Section 20F (Costs of taking land under s 20A) provides for the MEDQ to enter into an agreement about the costs associated with the taking of land under Section 20A. Prior to MEDQ taking land, an agreement can be entered into as to who will pay the costs. The agreement may require a guarantee or security to the MEDQ for those costs. If the costs are not paid according to the agreement, MEDQ can recover those costs as a debt owing by the person to the MEDQ. Costs in this section is defined as operational, administrative, and legal costs, and any compensation assessed under the *Acquisition of Land Act 1967* for taking the land.

Section 20G (*Application of Acquisition of Land Act 1967, ss 36 and 37*) provides that when MEDQ exercises the power to take land, sections 36 and 37 of the *Acquisition of Land Act 1967* apply as if the MEDQ were exercising its power to take the land as a constructing authority under the *Acquisition of Land Act 1967*.

Section 20H (Notice of intention to dispose of land that is not required) provides that if land acquired under section 20A is still held by the entity to which it was vested, but the entity no longer requires it and intends to sell it within 7 years after the day the land was taken, the entity must notify the previous owner of the land about the intention to sell, and the notice must include:

- The previous owner has 28 days to express interest in buying the land.
- The entity can sell the land to someone else if the previous owner is not interested or doesn't respond.
- If an easement was taken, the notice should mention the nature and terms of the easement.

If the entity is not MEDQ, they must provide a copy of the notice to MEDQ. However before sending the notice the entity can take an easement over all or part of the land if necessary for the operational integrity of any development infrastructure on the land.

Section 20(H)(6) provides that despite section 41 of the *Acquisition of Land Act 1967*, this section applies.

Section 20I (Power to dispose of land that is not required) provides the process when the previous owner of land taken under Section 20A gives notice under section 20H that they are interested in buying the land. If the previous owner notifies the entity that they want to buy the land, the entity must, through a notice, offer the land for sale to the previous owner at a price determined by the entity.

However, if the previous owner does not express interest in buying the land or provides notice that they are not interested or does not accept an offer for sale of the land made by the entity, the entity can dispose of the land subject to any easement over the land.

Subsection 20I(5) requires that in determining the sale price for the land, the entity must consider a valuation by a registered valuer under the Valuers Registration Act 1992 and consider its asset management policies, systems, and any existing easements over the land.

Individuals dealing with the entity regarding the land are not required to ask whether Section 20A or this section has been followed. Further, the title of anyone acquiring the land from the entity remains unaffected even if there is a failure to comply with Section 20A or this section.

Subsection 20I(8) provides clarification that this section applies despite Section 41 of the *Acquisition of Land Act 1967* relating to the disposal of acquired land that is no longer required by the entity in which the land was originally vested.

### **Clause 16 Replacement of s 23 (Arrangements for facilitating economic development or development for community purposes)**

Clause 16 replaces section 23 with a new section 23 (Arrangements to facilitate grant of appropriate lease under Land Act 1994). The new section is a consequential amendment to align existing powers with the amended main purpose of the Act.

The new section provides for the MEDQ to enter into arrangements to facilitate the grant of an appropriate lease to a person under the Land Act where it is to give effect the main purpose of the Act. The replaced section provided for this power where it was for an economic or community undertaking.

### **Clause 17 Amendment of s 28 (Administration of the Fund)**

Clause 17 amends section 28 to remove two subsections that required the accounts for the Fund to be maintained as part of the departmental accounts and required amounts received for the Fund be deposited in a specific departmental financial institution. The removal of these provisions is due to MEDQ becoming a separate non-departmental entity.

## **Part 5 Reporting and accountability**

### **Division 1 Reporting generally**

#### **Clause 18 Replacement of ch 2, pt 5**

Clause 16 replaces Chapter 2, Part 5. Part 5, titled 'Reporting and Accountability' establishes the reporting and accountability framework for MEDQ's operations.

Section 29 (Quarterly reports) provides that the board must submit quarterly reports to the Minister detailing MEDQ's activities for each quarter of the financial year. These reports are expected to be submitted promptly, either within 4 weeks after the quarter ends or within an agreed-upon period between the board and the Minister.

The content of the quarterly reports must include information required to be given under MEDQ's operational plan, describe how MEDQ has achieved the main purpose of the Act, and provide a comprehensive overview of the entity's activities during the reporting period. To

ensure accountability and official endorsement, each quarterly report must be signed by the chairperson of the board.

Subsection 29(4) provides the definition of a "quarter" within the context of a financial year, covering four distinct periods:

- July 1 to September 30;
- October 1 to December 31;
- January 1 to March 31; and
- April 1 to June 30.

Section 30 (Board to keep Minister informed) requires the board to keep the Minister informed about MEDQ's operations, financial performance, and financial position, along with the progress in achieving objectives outlined in strategic and operational plans, as well as how MEDQ has achieved the main purposes of the Act.

The board is further obligated to provide the Minister with necessary reports and information to facilitate informed assessments of matters mentioned in 30(a) and (b).

The board must also promptly notify the Minister of any emerging matters that, in their judgment, might impede or significantly impact the attainment of objectives in MEDQ's plans or substantially affect MEDQ's performance in delivering specified outputs under its operational plan.

Section 31 (Other reporting requirements) clarifies that the reporting obligations outlined in Sections 29 and 30 do not restrict the range of matters the board must inform the Minister about.

## **Division 2 Annual reports**

Section 32 (Definition for division) clarifies the term *annual report* meaning MEDQ's annual report under the *Financial Accountability Act 2009*.

Section 32A (Deletion of commercially sensitive matters from annual report) enables the board to seek the Minister's approval to remove commercially sensitive information from the publicly disclosed versions of an annual report and accompanying documents, which the Minister has the discretion to carry out. Further that these matters may also be removed from the annual report tabled in the Legislative Assembly.

Section 32B (Annual report may include a summary of a matter) provides that an annual report may include a summary of a matter instead of a full statement for that matter, provided the summary explicitly notes its nature and a complete statement of the matter is simultaneously presented to the Legislative Assembly alongside the annual report.

Section 32C (Matters to be included in annual report) requires that the annual report for a financial year must incorporate details of all directions issued to MEDQ by the Minister under this part and part 6 throughout the relevant financial year.

### **Division 3      Strategic and operational Plans**

Section 32D (Interaction with the *Financial Accountability Act 2009*) establishes the interaction between Division 3 (which covers strategic and operational plans) and the *Financial Accountability Act 2009*. It states that if a particular action is mandated under both this division and the *Financial Accountability Act 2009*, adherence to the requirements of the *Financial Accountability Act 2009* is deemed sufficient compliance with this division. In cases where there is no overlap, the requirements of this division are considered additional to those of the *Financial Accountability Act 2009*.

Subsection 32D(3) provides clarification that any inconsistencies between this division and the *Financial Accountability Act 2009*, the *Financial Accountability Act 2009* takes precedence to the extent of the inconsistency.

Section 32E (Draft strategic and operational plans) outlines the process for preparing draft strategic and operational plans.

Before March 31 each year, the board is required to create and submit to the Minister a draft strategic plan and a draft operational plan for the upcoming financial year. Both the board and the Minister are expected to endeavour to reach mutual agreement on these draft plans as early as possible and, at the latest, by the commencement of the financial year.

Section 32F (Procedures) outlines the procedures related to the Minister's role in the drafting of strategic and operational plans. The Minister can return the draft plans to the board, specifying certain considerations or revisions, and the board is obliged to address these promptly.

Subsection 32F(3) provides that if, by 1 month before the start of the financial year, an agreement has not been reached, the Minister can issue a written notice directing the board to take specific actions or make specified modifications to the draft plans.

The board is required to promptly comply with such directions and incorporate a copy of the direction in the plans.

Section 32G (Strategic or operational plan pending agreement) applies if an agreement between the Minister and the board on the draft strategic or operational plan is not reached before the start of the relevant financial year.

In such cases, the draft plan provided by the board to the Minister before the commencement of the financial year, or the latest version of it with any modifications directed by the Minister, is considered MEDQ's strategic or operational plan.

This provision remains applicable until a draft plan officially becomes MEDQ's strategic or operational plan under Section 32H.

Section 32H (Strategic or operational plan on agreement) stipulates that once the Minister has formally agreed to the draft strategic or operational plan in writing, that specific plan is recognised as MEDQ's strategic or operational plan for the relevant financial year.

Section 32I (Compliance with strategic and operational plans) establishes the obligation for MEDQ to adhere to its strategic and operational plans during a financial year.

Section 32J (Modifications of strategic or operational plan) provides for the conditions under which modifications to MEDQ's strategic or operational plan can occur. The board is authorised to make modifications only with the written agreement of the Minister.

Alternatively, the Minister can issue a written notice directing the board to make specific modifications to MEDQ's strategic or operational plan.

Section 32K (Content of strategic plan) specifies the mandatory content to be included in MEDQ's strategic plan for a financial year.

This includes objectives and intended outcomes, details on MEDQ's capital structure, MEDQ's annual budget and revenue forecasts, key performance indicators related to the main purpose of the Act. It also requires an overview of several critical matters, being:

- The nature and scope of activities proposed for the financial year.
- MEDQ's main undertakings for the financial year.
- Borrowings made or proposed by MEDQ.
- Policies for minimizing or managing risks associated with investments and borrowings affecting financial stability.
- Policies and procedures related to the acquisition and disposal of major assets.
- An outline of major investments proposed for the financial year.

Section 32L (Publication of strategic plan) requires MEDQ to publish its strategic plan, incorporating any modifications made under section 32J, on MEDQ's website.

Subsection 32L(2) provides that if MEDQ believes that certain information in the strategic plan could negatively impact MEDQ's interests or disclose commercially sensitive information, there is no obligation to publish such information.

## **Part 6 Directions about equity and dividends**

### **Division 1 Direction about equity**

Section 32M (Giving direction) empowers the Minister to issue a written direction to MEDQ regarding the payment, transfer, withdrawal, or transfer of assets or liabilities to or from MEDQ's equity. MEDQ is obligated to adhere to this direction. The board is responsible for ensuring compliance, and the Minister must consult with the board before issuing such a directive.

### **Division 2 Direction about dividends**

Section 32N (Giving direction) empowers the Minister to issue a written direction to MEDQ, specifying the payment of a dividend to the State for a particular financial year.

MEDQ is obligated to make this payment within 6 months after the conclusion of the relevant financial year or within an extended period granted by the Minister.

Section 32O (Amount of dividend) outlines the process for determining the amount of dividend for MEDQ in a financial year.

Between May 1 and May 15, MEDQ is required to provide the Minister with an estimate of its profit and a recommendation for the dividend amount. Before the financial year concludes, the Minister may either approve the recommendation, directing MEDQ to pay a dividend of that specified amount, or issue a direction for a different stated amount. Importantly, the dividend amount must not exceed what would be allowed under the Commonwealth Corporations Act, part 2H.5, if MEDQ were a company.

## Part 7 Commonwealth tax equivalents

Section 32P (Liability for Commonwealth tax equivalent) establishes the framework for liability concerning Commonwealth tax equivalents for MEDQ and its subsidiaries.

Subsection 32P(1) grants authority to the Treasurer to create a manual, the tax equivalents manual, which involves decisions related to tax equivalents.

Subsection 32P(2) specifies the potential provisions within the tax equivalents manual, including rulings by the appointed tax assessor on matters concerning tax equivalents, such as the application of Commonwealth Act rulings on Commonwealth tax, lodging of returns by MEDQ and its subsidiaries, assessment of returns, defining the functions and powers of the tax assessor, and addressing objections and appeals against assessments and rulings.

Subsection 32P(3) grants the Treasurer the authority to designate an individual as the tax assessor in accordance with the tax equivalents manual.

Subsections 32P(4) mandates that MEDQ and any subsidiaries comply with the tax equivalents manual, making required payments of tax equivalents to the Treasurer for deposition into the consolidated fund.

Subsection 32P(5) provides that the Treasurer is obligated to present a copy of the tax equivalents manual, along with any modifications, to the Legislative Assembly within 14 sitting days from the issuance of the manual or the implementation of amendments.

In this context, the terms *Commonwealth tax* refers to tax under a Commonwealth Act, and *tax equivalents* signify payments made by MEDQ or its subsidiaries to the Treasurer, for payment into the consolidated fund, as the value of benefits derived by MEDQ or its subsidiaries because it is not liable to pay Commonwealth tax that would be payable by it if it were not a government entity.

## Part 8 Chief executive officer

Section 32Q (Appointment) specifies that the Governor in Council appoints the CEO. The appointment is made under this Act, and not the *Public Sector Act 2022*.

To be appointed to the CEO position, a person must possess a professional qualification relevant to the main functions of MEDQ and have professional experience in an area related to those functions.

Section 32R (Disqualification as CEO) provides the conditions that may lead to disqualifications for both the appointment and the ongoing tenure of the Chief Executive Officer of MEDQ.

A person is ineligible for the position if they have a conviction for an indictable offense (excluding spent convictions), are under administration as an insolvent, are disqualified from managing corporations under the Corporations Act, part 2D.6, or have contravened specific sections.

Section 32S (Criminal history report) outlines the process for obtaining a criminal history report to assess whether a person is disqualified from assuming or continuing as the CEO.

The Minister has the authority to request a written report on the individual's criminal history and a brief description of the circumstances surrounding any mentioned convictions from the commissioner of the police service. However, this request can only be made with the person's written consent. The commissioner of the police service is obligated to fulfill this request, limited to information within their possession or access.

Once the report is no longer needed for its intended purpose, the Minister must ensure its destruction.

In Schedule 1 of the Act, criminal history of a person is defined as the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

Section 32T (Term) specifies the CEO holds office for the duration stated in the instrument of appointment, with the stipulation that the stated term cannot exceed 5 years. The CEO may be reappointed.

Section 32U (Remuneration and conditions) provides for the remuneration and conditions for the Chief Executive Officer of MEDQ. The CEO's remuneration and other allowances are determined by the Governor in Council, and the CEO holds office based on terms and conditions, not specified by this Act, which are decided by the Governor in Council.

Section 32V (Removal by Governor in Council) provides for the circumstances in which the Governor in Council may remove the CEO from office.

The Minister may recommend to the Governor in Council removal if satisfied that the CEO has engaged in inappropriate or improper conduct, either in an official capacity or in a privately capacity, which seriously and adversely reflects on the office. Removal may also occur if the CEO becomes incapable of performing their functions or if they neglect their duties or perform their functions incompetently.

Section 32W (Vacancy in office) specifies the circumstances under which the office of the CEO becomes vacant. The vacancy may occur if the CEO completes a term of office without reappointment, resigns by providing a signed notice to the Minister, becomes disqualified from continuing as CEO under section 32R(a), (b) or (c), or is removed from office under section 32V.

Section 32X (CEO not to engage in other paid employment) imposes restrictions on the CEO engaging in paid employment outside the responsibilities of the CEO's office, and if applicable, the office of the executive officer of the EDQ employment office without prior written approval from the Minister.

The CEO also requires the written approval from the Minister to actively participate in the activities of a business or in the management of a corporation carrying on a business outside the responsibilities of the CEO's office, and if applicable, the office of the executive officer of the EDQ employing office.

Section 32Y (CEO not to enter into contract with MEDQ) restricts the CEO from entering into a contract with MEDQ unless it is a contract relating to the CEO's employment.

Section 32Z (Conflicts of interest) provides that if the CEO has an interest that conflicts or may conflict with their responsibilities, the CEO is required to promptly disclose the nature of the interest and conflict to the Minister as soon as the relevant facts become known to the CEO; and must also refrain from taking any action or further action concerning a matter that is or may be affected by the conflict unless specifically authorised by the Minister.

Section 32ZA (Functions) assigns the Chief Executive Officer (CEO) the function of ensuring the effective and efficient administration and operation of MEDQ, including the performance of its functions, and grants the CEO additional functions as specified under this Act or another Act.

Section 32ZB (Powers) grants the CEO the power to undertake anything necessary or convenient for the performance of their functions, along with additional powers under this Act, or another relevant legislation.

Section 32ZC (Delegation) enables the CEO to delegate their functions, including powers, under this act to a suitably qualified person.

Section 32ZD (Acting CEO) grants the Governor in Council the authority to appoint an acting CEO during a vacancy, absence or inability of the CEO to perform duties. The acting CEO is appointed under this Act and not the *Public Sector Act 2022*.

## **Part 9 EDQ employing office**

### **Division 1 Establishment**

Section 32ZE (Establishment of EDQ employing office) provides that the EDQ employing office comprises the executive officer and its employees, creating a distinct entity from MEDQ.

Section 32ZF (EDQ employing office represents the State) clarifies the EDQ employing office represents the State and enjoys the status, privileges, and immunities of the State.

Section 32ZG (Application of other Acts) provides that the EDQ employing office is a unit of public administration under the *Crime and Corruption Act 2001* and a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*.

Section 32ZH (Functions) outlines the key functions of the EDQ employing office on behalf of the State. These include entering into mobility arrangements for EDQ employees to work in or for MEDQ and employing for the State employees to perform work in or for MEDQ under these mobility arrangements.

The legislation also grants flexibility for the EDQ employing office to take on additional functions conferred by this Act or others.

Section 32ZI (Powers) provides that the EDQ employing office is able to take any necessary or convenient actions for the performance of its functions and possesses powers granted to it under this Act or another Act.

Section 32ZJ (Employees) stipulates that the employees of the EDQ employing office are to be employed under the *Public Sector Act 2022*.

## **Division 2      Executive officer**

Section 32ZK (Appointment) requires that there must be an executive officer for the EDQ employing office, appointed by the Governor in Council under this Act, and not the *Public Sector Act 2022*. The executive officer can be the same person as the CEO.

Section 32ZL (Disqualification as executive officer) stipulates that a person cannot be appointed or continue as the executive officer if they have a conviction (other than a spent one) for a serious crime, are insolvent, are disqualified from managing companies under the Corporations Act, or violate sections 32ZR or 32ZS.

Section 32ZM (Criminal history report) enables the Minister to request a criminal history report from the police commissioner about a person's background to determine if they are disqualified from serving or continuing as the executive officer.

The request can only be made with the individual's written consent. The police commissioner must comply with the request, limited to information in their possession or accessible to them.

The Minister must ensure the report is destroyed once it is no longer required for the intended purpose.

In Schedule 1 of the Act, criminal history of a person is defined as the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

Section 32ZN (Term) specifies the term of office for the executive officer of MEDQ. The executive officer holds office for the duration stated in the instrument of appointment, with the stipulation that the stated term cannot exceed 5 years. The executive officer is eligible for reappointment.

Section 32ZO (Remuneration and conditions) provides for the remuneration and conditions for the executive officer of MEDQ.

The EO's remuneration and other allowances are determined by the Governor in Council, and the EO holds office based on terms and conditions, not specified by this Act, which are decided by the Governor in Council.

Subsection 32ZO(3) provides that if the executive officer is also appointed as CEO, the remuneration and allowances is only paid the remuneration and allowance of the CEO under section 32U.

Section 32ZP (Removal by Governor in Council) provides for the circumstances in which the Governor in Council may remove the executive officer from office.

The Minister may recommend removal if satisfied that the executive officer has engaged in inappropriate or improper conduct, either in an official capacity or privately, which seriously and adversely reflects on the office. Removal may also occur if the executive officer becomes incapable of performing their functions or if they neglect their duties or perform their functions incompetently.

Section 32ZQ (Vacancy in office) specifies the circumstances under which the office of the executive officer becomes vacant. The vacancy occurs if the executive officer completes a term of office without reappointment, resigns by providing a signed notice to the Minister, becomes disqualified from continuing as executive officer under section 32ZL (a), (b), or (c), or is removed from office.

Section 32ZR (Executive officer not to engage in other paid employment) imposes restrictions on the executive officer in engaging in paid employment outside the responsibilities of the executive officer, and if applicable, the office of the CEO of the EDQ employment office without prior written approval from the Minister.

The executive officer also requires the written approval by the Minister to actively participate in the activities of a business or in the management of a corporation carrying on a business outside the responsibilities of the executive officer, and if applicable, the office of the executive officer of the EDQ employing office.

Section 32ZS (Conflicts of interest) provides that if the executive officer has a personal interest conflicting with their responsibilities, they must promptly disclose it to the Minister and refrain from taking action on matters affected by the conflict without the Minister's approval.

Section 32ZT (Functions) provides that the executive officer is responsible for ensuring the effective and efficient administration and operation of the EDQ employing office and the performance of its functions, noting that the executive officer also has functions assigned under this Act or another Act.

Section 32ZU (Powers) provides that the executive officer has the authority to undertake anything necessary or convenient for the performance of their functions, and possesses powers specified in this Act or another Act.

Section 32ZV (Delegation) provides that the executive officer can delegate their functions under this Act to another appropriately qualified employee of the EDQ employing office. In this section, ‘functions’ includes powers.

Section 32ZW (Acting executive officer) prescribes that the Governor in Council may appoint a person to act as the executive officer during a vacancy, absence, or inability to perform duties, noting that the acting executive officer is appointed under this Act, not the *Public Sector Act 2022*.

## **Part 10 Identity cards**

Section 32ZX (Issue of identity card for particular employees and agents) stipulates that MEDQ is required to issue an identity card to each individual authorized to access premises under section 123 or 123A.

The identity cards are to include a recent photo, a copy of the individual’s signature, identify them as MEDQ-authorized, and indicate an expiry date for the card. This provision does not prevent the issuance of a single identity card for both purposes under this Act and other contexts.

Section 32ZY (Production or display of identity card) provides the requirements for individuals exercising powers under this Act in the presence of another person.

The individual must either produce their identity card for inspection before exercising the power or have the identity card displayed so that it is clearly visible to the person during the exercise of the power. If it is impractical to comply with these requirements, the individual must produce the identity card for inspection at the first reasonable opportunity.

Section 32ZZ (Return of identity card) provides that if an individual is no longer authorised under section 30, they must return their identity card to MEDQ within 21 days of ceasing authorisation, unless a reasonable excuse is provided.

Failure to comply with this requirement may result in a maximum penalty of 20 penalty units.

### **Clause 19 Amendment of s 34 (Declaration)**

Clause 19 amends Section 34 (Declaration) to include additional requirements that the Minister must have regard to before the declaration regulation under subsection (1) is made.

Subsection 34(2) is amended to include new requirements that the Minister must have regard to before recommending to the Governor in Council the making of a declaration regulation.

The additional requirements are for the Minister to consult with the Minister administering the Planning Act under 34(2)(a) and to have regard to any State Planning instrument applying to the land in the area under section 37(2)(b)(v).

### **Clause 20 Amendment of s 36I (Other amendments)**

Clause 20 makes an amendment to Section 36I (Other amendments) to include a note under Subsection 36I(4).

The note highlights that Part 3A specifically addresses the creation of a temporary planning instrument. Such an instrument has the effect of either suspending or otherwise influencing the operation of a provisional land use plan without making any actual amendments to it.

### **Clause 21 Amendment of s 37 (Declaration)**

Clause 21 amends Section 37 (Declaration) to include additional requirements that the Minister must have regard to before the declaration regulation under subsection (1) is made.

Subsection 37(2) is amended to include requirements that the Minister must have regard to before recommending to the Governor in Council the making of a declaration regulation.

The additional requirements are for the Minister to consult with the Minister administering the Planning Act under 37(2)(a) and to have regard to any State Planning instrument applying to the land in the area under section 37(2)(b)(v).

### **Clause 22 Amendment of s 40AB (Expiry of interim land use plan)**

Clause 22 introduces additional flexibility for the expiry of interim land use plans.

The amendment to section 40AB (Expiry of interim land use plans) provides for an interim land use plan to expire in accordance with a date fixed under section 40ABA. This is in addition to the existing ways in which an interim land use plan can expire being:

- on the date mentioned in the declaration regulation for the PDA, if there is one; or
- if there is no mentioned date, on the day that is 1 year after the plan starts.

The section maintains the ability for the expiry of an interim land use plan to be extended to account for a caretaker period where required.

### **Clause 23 Insertion of new ss 40ABA and 40ABB**

Clause 23 provides for a new section allowing the extension of an interim land use plan.

Section 40ABA (Extension of expiry day for interim land use plans) applies to interim land use plans, when the declaration regulation doesn't specify an expiration date for the plan, and a development scheme has not commenced for the area.

Within 1 year from the day the plan takes effect, MEDQ can fix, by gazette notice, a new expiration date.

However, this new date cannot extend beyond 2 years from the original effective date of the interim land use plan.

Section 40ABB (Minor administrative amendments of interim land use plan) provides MEDQ the authority to make minor administrative amendments to an interim land use plan. If such an amendment occurs, MEDQ is required to publish details of the changes, including the amended plan, on its website and issue a gazette notice. The amendment takes effect on the day the gazette notice is published.

MEDQ must, without delay, publish a notice in a local newspaper informing the public of the amendment and its availability on MEDQ's website.

**Clause 24 Amendment of s 40AC (Making new interim land use plan)**

Clause 24 updates the references in the Act with regards to sections 40AC (Making new interim land use plan)

**Clause 25 Amendment of s 40C (Declaration of PDA-Associated development)**

Clause 25 amends section 40C (declaration of PDA-Associated Development). The amendment is required as a consequence of the amendment to the main purpose of the Act. The reference in the section to *economic or community benefit* is replaced by a reference to the main purpose of the Act. The amended main purposed of the Act includes economic development and development for community purposes, but also includes the provision of diverse housing, including for example, social housing and affordable housing and the provision of premises for commercial or industrial uses.

**Clause 26 Amendment of s 51AE (Process for approving plans of subdivision)**

Clause 26 updates section 51AE (Process for approving plans of subdivision) to make consequential amendments to cross-referencing in section 104.

**Clause 27 Amendment of s 51AF (Registering particular plans of subdivision approved before cessation)**

Clause 27 updates section 51AF (Registering particular plans of subdivision before cessation) to make consequential amendments to cross-referencing in section 104.

**Clause 28 Amendment of s 57 (Content of development scheme)**

Clause 28 amends section 57 (Content of development scheme) to include in subsection 3 a provision that a land use plan may include requirements related to social housing, affordable housing, and the payment of an amount in lieu of the supply of social housing or affordable housing.

Subsection (4)(b)(ii)(B) is amended as a consequence of the amendment to the main purpose of the Act. The reference in the section to *economic or community benefit* is replaced by a reference to the main purpose of the Act. The amended main purposed of the Act includes economic development and development for community purposes, but also includes the

provision of diverse housing, including for example, social housing and affordable housing and the provision of premises for commercial or industrial uses.

**Clause 29 Amendment of s 58 (Preparation of proposed development scheme)**

Clause 29 amends section 58 (Preparation of proposed development scheme) to include considerations for the preparation of a proposed development scheme, incorporating the objectives of the State in providing social housing for the PDA or part of the PDA.

**Clause 30 Amendment of s 66 (General power to amend)**

Clause 30 amends section 66 (General power to amend) to include a note referencing part 3A of the which provides for the making of a temporary planning instrument that suspends or otherwise affects the operation of a development scheme but does not amend it.

**Clause 31 Insertion of new ch 3, pt 3A**

**Part 3A Temporary planning Instruments**

Clause 31 introduces a new part (Part 3A) into Chapter 3 providing for MEDQ to make temporary planning instruments.

Section 71AA (Definitions for part) provides definitions relevant to new Part 3A for *affected instrument*, *relevant area* and *temporary planning instrument*.

Section 71AB (MEDQ may make temporary planning instruments) provides for the MEDQ to create a temporary planning instrument, which can affect the operation existing instruments without actually amending or repealing them. This temporary instrument can affect, in a specified manner, provisional land use plans, interim land use plans, or development schemes.

Subsection 71AB(2) provides that MEDQ may make such an instrument if it considers a risk or potential risk of serious adverse cultural, economic, environmental, or social conditions in the relevant area for the affected instrument.

For interim land use plans or development schemes, MEDQ can issue the temporary planning instrument if alignment with the place renewal framework for a place renewal area is deemed necessary or desirable in the relevant area. The temporary planning instrument is intended to promptly address the identified risks or alignment needs without permanently altering the affected instrument.

The term '*affect*' in this context includes the ability to suspend the operation of the affected instrument.

Section 71AC (Publication) requires specific actions following the creation of a temporary planning instrument by MEDQ.

The instrument must be published in both the gazette and on MEDQ's website, and a copy of the instrument must be provided to the relevant local government for the specified area.

Section 71AD (Commencement) provides for the commencement of a temporary planning instrument. The instrument becomes effective on the day it is officially published in the gazette. Alternatively, it may commence on a later date specified within the instrument itself.

Section 71AE (Expiry) outlines the expiration criteria for a temporary planning instrument.

The instrument ceases to be in effect on the earliest of the following occurrences:

- 2 years after the day it commences;
- The specific day of expiry as stated in the instrument itself;
- The day on which the instrument (being the provisional land use plan, interim land use plan or development scheme that the temporary planning instrument impacts), expires or is repealed.

Section 71AF (Repeal) establishes the procedure for repealing a temporary planning instrument.

A temporary planning instrument can be repealed by making a new, or amending an existing planning instrument, of the same type as the planning instrument that has been affected by the temporary planning instrument. This may be amending a development scheme or provisional plan use plan or making a new interim land use plan.

This can occur even if the affected instrument's operation is suspended by the temporary planning instrument.

Subsection 71AF(3) clarifies that this section does not limit the application of the *Acts Interpretation Act 1954*, section 24AA which provides that if an Act authorises or requires the making of an instrument or decision, this power also includes the power to amend or repeal that decision or instrument.

### **Clause 32 Amendment of s 77 (Exemption for particular development approvals and designations under Planning Act)**

Clause 32 amends section 77 (Exemption for particular development approvals and designations under Planning Act) to change the reference to subsection 44(3) instead of subsection 44(2) in subsection 77(1)(a)(i).

### **Clause 33 Insertion of new s 84G**

Clause 33 introduces a new section 84G (Consultation) that provides for the MEDQ, in deciding a PDA development application, to consult with any entity in the way it considers appropriate. The MEDQ however, would not be obliged to consult with any entity.

### **Clause 34 Amendment of s 87 (Matters to be considered in making decision)**

Clause 34 amends section 87 to include a place renewal framework and any advice sought by MEDQ in relation to a place renewal framework as matters that are required to be considered

when deciding a development application, if that application is for land within a place renewal area.

The place renewal framework states the vision, objectives and outcomes for a place renewal area and includes an implementation plan to achieve the vision, objectives and outcomes for the area.

### **Clause 35 Amendment of s 88 (PDA development conditions)**

Clause 35 amends section 88 (PDA development conditions) to include provisions related to PDA development conditions. This includes conditions pertaining to the supply of affordable housing or social housing on the relevant land for the PDA development application, as well as the option for the payment of an amount in lieu of providing affordable or social housing.

However, these conditions can only be imposed if the relevant development instrument for the PDA specifies requirements related to the condition.

### **Clause 36 Insertion of new s 88A**

Clause 36 inserts a new section s88A (Use of amounts paid in lieu of supply of social housing or affordable housing).

Section 88A provides that monetary contributions paid in lieu of social or affordable housing under a PDA development condition may be used by the MEDQ for the provision of social housing or affordable housing in the local government area in which the approved development is located.

### **Clause 37 Amendment of s 104 (Plans of subdivision)**

Clause 37 amends section 104 (Plans of subdivision) of the Act to create a head of power for the MEDQ to specify requirements for an application seeking approval for a plan of subdivision and to decide a fee for that application.

## **Part 4A Place renewal areas**

### **Division 1 Preliminary**

#### **Clause 38 Insertion of new ch 3, pt 4A**

Clause 38 introduces a new chapter and part, Chapter 3, Part 4A, titled 'Place renewal areas.'

Section 104AA includes new definitions for *place renewal area*, *place renewal area declaration* and *place renewal framework*.

New section 104AB (References to particular terms in relation to place renewal areas) clarifies that when a local government is referenced in this part in relation to a place renewal area, it means the relevant local government for the PDA related to the place renewal area that has been declared. If the place renewal area includes land that falls within another local government's jurisdiction, then it also refers to that local government.

Subsection 104AB(2) provides that for the purpose of this section, a place renewal area is considered related to a PDA if:

- the place renewal area contains land that is physically within the PDA, or
- if the place renewal area includes land that is PDA-associated land

## **Division 2 Declaration of place renewal areas**

New Section 104AC (Declaration) provides that MEDQ can declare land as a place renewal area if it is in a PDA (other than a s development area) or is PDA-associated land for a PDA.

The declaration can be made if the planning and development of the proposed area involves or is likely to involve a State interest, and action under this part is necessary to manage that interest.

Subsection 104AC(3) clarifies that multiple declarations can be made for the same PDA if they relate to different parts of the PDA or PDA-associated land.

Subsection 104AC(4) requires MEDQ to consult the relevant local government in declaring a place renewal area but does not require the consultation with other parties.

Subsection 104AC(5) provides that the declaration must include details about the PDA, a description of the land subject to the declaration, and any other information specified by regulation.

Section 104AD (When place renewal area declaration has effect) provides that a place renewal area declaration becomes effective on the day when the notice is published in the gazette. This declaration stays in effect until the earliest of the following:

- if a place renewal framework for the place renewal area is not made within the period provided under section 104AG(2) and (3)—the day after the last day of the period.
- the place renewal area is revoked; or
- the day when all the land in the declared place renewal area is no longer within a PDA or PDA-associated land.

Section 104AE (MEDQ must give notice of place renewal area declaration) requires that once MEDQ declares a place renewal area, it must:

- publish the declaration on MEDQ's website,
- publish a gazette notice announcing the declaration and that it is available on MEDQ's website.
- provide notice in a newspaper circulating in the area of the relevant local government stating that the declaration has taken effect and is published on MEDQ's website, and
- give the relevant local government a notice stating that the declaration has taken effect.

### **Division 3      Amendment of place renewal area declarations**

Section 104AF (Amendment of place renewal area declaration—boundary change affecting priority development area) applies when there is an existing place renewal area within an existing PDA and the boundaries of the PDA are altered whereby land is removed from the PDA and the place renewal area encompasses either the entire area or a portion of the land that has been excluded from the PDA.

The declaration for the place renewal area is to be amended to exclude the land that is removed from the PDA. The changes made to the place renewal area take effect when the changes to the regulation (excluding land from the PDA) begin.

Following the regulation changes, the MEDQ must as soon as practicable publish the updated place renewal area declaration, as modified in 104AF(2), on MEDQ's website and publish a notice in the gazette specifying the updated details of the land covered by the declaration.

### **Division 4      Place renewal frameworks**

Section 104AG (Place renewal framework required) provides that MEDQ must create a document called a 'place renewal framework' for a place renewal area. The framework needs to be created either at the time when the declaration for the place renewal area is made, or within 12 months after that declaration is made for the place renewal area and is considered a statutory instrument.

If the framework is not finalised within the 12 months, the MEDQ can extend the period for a further 6 months and must publish a notice on its website stating the extension.

Subsections 104AG(3) and (4) includes provisions if a caretaker period comes into effect during the preparation of a place renewal framework. This provides for the timeframe to prepare the framework to be extended for the length of that caretaker period plus 20 business days.

Section 104AH (Content of place renewal framework) provides for what a place renewal framework must include for the place renewal area. It needs to state the vision, objectives, and outcomes for the area, provide a plan for implementation, and ensure alignment with the main purpose of the Act. It may identify specific actions proposed by MEDQ to be undertaken to achieve the vision, objectives and outcomes for the place renewal area.

Section 104AI (Requirement to consult before making place renewal framework) requires MEDQ to engage in consultation before developing the place renewal framework. The MEDQ must consult in the way it considers appropriate with the relevant local government and other entities that might be affected by the proposed framework, including government entities, Government Owned Corporations, or another person or entity.

Section 104AJ (MEDQ must give notice of place renewal framework) outlines the steps MEDQ must take to inform the public and the local government about the place renewal framework. After creating the framework, it needs to be made available on MEDQ's website, and information about the framework must be published in a gazette notice.

As soon as practicable after the framework takes effect, a least one notice must be published in a local newspaper, and the relevant local government must be formally notified of the framework coming into effect.

Section 104AK (When place renewal framework takes effect) provides that the place renewal framework commences on the day the gazette notice is published.

Section 104AL (Period for which place renewal framework has effect) provides that the place renewal framework is in effect until the place renewal area declaration for the place renewal area stops having effect under section 104AD.

## **Division 5      Other provisions**

Section 104AM provides for particular entities to give information or assistance to MEDQ to make or implement a place renewal framework. Particular entities include a distributor-retailer, a government entity, and a local government.

Subsection 104AM(2) provides that it is the duty of distributor-retailers, other government entities, and local governments, to provide MEDQ with any necessary information or support required for the development and implementation of a place renewal framework.

Subsection 104AM(3) and (4) provides that the MEDQ can issue written directives to distributor-retailers, other government entities, or local governments, specifying the exact information or assistance needed to fulfill its functions or exercise powers related to a place renewal framework. In such cases, the directed entity is obligated to take all reasonable measures to comply with the issued directive. This provision does not limit the application of sections 126A, 127 or 128.

Subsection 104AM(6) clarifies the terms, 'assistance' in this context excludes the provision of funds or other assets to MEDQ, while 'information' is inclusive of documents.

Section 104AN (Consultation) provides that MEDQ is not obligated to consult with any specific entity, but it has the option to consult with any entity if it deems it appropriate to do so when carrying out its functions or using its powers in relation to a place renewal area.

This provision is subject to any requirements elsewhere in this part, where a requirement to consult is expressly provided for.

Section 104AO (MEDQ's power to amend or revoke place renewal instruments) clarifies that the powers granted to the MEDQ to amend or revoke a place renewal area or amend a place renewal framework are not restricted by anything mentioned in this part. The *Acts Interpretation Act 1954*, section 24AA, is explicitly applied for these purposes.

## **Division 4      Remission of amounts**

### **Clause 39    Insertion of new ch 3, pt 6, div 4**

Clause 39 introduces Division 4 into Chapter 3, Part 6, outlining the remission of amounts paid for infrastructure charges to the MEDQ. This section pertains to amounts paid to a local government or distributor-retailer under a development approval or water approval concerning land within a PDA or on PDA-associated land.

Section 117A (Definitions for division) provides definitions for the division.

Section 117B (Relevant infrastructure amounts) defines ‘a relevant infrastructure amount’ as an amount paid or payable to a local government or distributor retailer under a relevant approval in relation to trunk infrastructure or under an infrastructure charges notice given for a relevant approval.

Section 117C (Relevant approvals) identifies when a development approval or a water approval is a relevant approval within a PDA.

Section 117D (MEDQ may require information about relevant infrastructure amounts) provides for the MEDQ to ask a local government or distributor retailer for particulars about relevant infrastructure amounts paid or payable to the local government or distributor retailer. The local government or distributor retailer is required to comply with the request.

Section 117E (MEDQ may require remission of relevant infrastructure amounts) provides for the MEDQ to require the remission of the relevant infrastructure amounts.

Subsection 117E(1) stipulates that MEDQ must be satisfied that the relevant infrastructure amount may be utilised for supplying infrastructure for the PDA or PDA-associated land to address the impacts of development in the area or on the land, regardless of whether the infrastructure serves another function or purpose.

In Subsection 117E(2), MEDQ is granted the authority to issue a notice to the local government or distributor-retailer, to whom the amount is payable, requiring them to remit the relevant infrastructure amount to MEDQ.

Subsection 117E(3) states that the amount to be remitted does not include any of the relevant infrastructure amount that is excluded under subsection 117E(4).

Subsection 117E(4) identifies that amounts excluded from remittance to the MEDQ including those related to development approvals that were given before the day PDA was declared, or before the day the land became part of the PDA. Also excluded are amounts if an approval was changed or amended after the PDA was declared or the land became part of a PDA, and the amount was paid to the local government or distributor retailer before the approval was changed or amended.

Subsection 117E(5) clarifies that an amount that a local government or distributor-retail is required to remit to MEDQ may be recovered as a debt owed to MEDQ.

**Clause 40 Insertion of new ch 3, pt 7A**

**Part 7A Housing agreements relating to priority development areas**

Clause 40 establishes a new part 7A titled ‘Housing agreements relating to priority development areas’.

Section 122AA (Application of part) applies when a PDA development condition necessitates an entity to make a payment in lieu of providing social or affordable housing.

MEDQ can enter into a housing agreement with an entity, allowing the entity's payment obligation to be waived in exchange for providing social housing or affordable housing. This housing can be supplied either on the specified land for the PDA development approval or on a different piece of land not initially designated for the PDA development approval.

Subsection 122AA(3) clarifies that the land mentioned in subsection (2)(b) may be situated within or outside the PDAs specified in the PDA development approval.

Section 122AB (Obligation to negotiate in good faith) outlines the obligation to negotiate in good faith when proposing or receiving proposals for a housing agreement between MEDQ and another entity.

If one entity proposes to the other to enter into a housing agreement, the recipient must confirm in writing whether they agree to negotiate. Throughout the negotiation process, both entities are required to act in good faith. This includes timely disclosure of relevant information, consideration and response to proposals, and providing reasons for responses.

Section 122AC (Content of housing agreement) provides the content requirements for a housing agreement.

The agreement must address various matters, including a statement about how responsibilities would be fulfilled in the event of a change in the ownership of the premises covered by the agreement.

If responsibilities hinge on development entitlements that might be impacted by a planning change, the agreement must include provisions for refunding or reimbursing amounts paid, and for adjusting or cancelling responsibilities if entitlements change without the required consent. The section also allows for the inclusion of other matters prescribed by regulation.

A housing agreement may stipulate the provision of security to MEDQ to ensure compliance with the agreement.

Section 122AD (Copy of housing agreement must be given to local government) requires that a copy of housing agreement is given to the relevant local government.

Section 122AE (When housing agreement binds successors in title) applies if the owner of the relevant land is a party to the agreement or consents to the responsibilities under the agreement being attached to the relevant land.

In this case, the obligations outlined in the housing agreement become binding on the owner and their successors in title. In cases where the owner's consent is not officially endorsed on the agreement, the owner is required to furnish a copy of the consent document to the local government responsible for the relevant land.

Subsections 122AE(4) to (6) outline specific conditions regarding subdivision. If the housing agreement explicitly states that part of the relevant land is to be released from responsibilities upon subdivision, and if the subdivision occurs, the specified part is released from the outlined responsibilities. Consequently, the responsibilities are no longer binding on the owner of that specific subdivided part.

Section 122AF (Exercise of discretion unaffected by housing agreement) provides that a housing agreement is not invalid merely on the basis that the fulfillment of the responsibilities under a housing agreement require a PDA development approval that is yet to be obtained.

Section 122AG (Housing agreement applies instead of PDA development condition requiring payment of amount) stipulates that if MEDQ enters into a housing agreement with an entity to waive the payment required under a PDA development condition of a PDA development approval (imposed under section 88(1)(f)(iii)) in exchange for the supply of social or affordable housing, the housing agreement prevails over the PDA development condition in case of any inconsistency.

Subsections 122AG(3), (4), and (5) outline the continued effect of the housing agreement if the relevant land for the PDA development approval ceases to be in a PDA, and the PDA development condition becomes a condition of a Planning Act approval (transitional payment condition).

Even if the terms of the housing agreement couldn't be imposed under the Planning Act, subsection (4) ensures the housing agreement's continued effect, with MEDQ remaining a party and its rights and responsibilities persisting.

In case of termination or ineffectiveness of the housing agreement, any amount required under the transitional payment condition becomes payable to MEDQ as a debt (subsection 6).

#### **Clause 41 Amendment of s 122A (Definitions for part)**

Clause 41 amends section 122A by replacing the definition of "MEDQ employee" with "EDQ employee," defined as an employee of the EDQ employing office engaged in work or duties for MEDQ under a mobility arrangement outlined in section 32ZH.

**Clause 42 Amendment of s 122B (Powers for investigation and enforcement of PDA development offences and related matters)**

Clause 42 modifies Section 122B by substituting the term "MEDQ employee" with "EDQ employee" in paragraph (b), relating to powers for investigation and enforcement of PDA development offenses and related matters.

**Clause 43 Amendment of s 123 (Application of local government entry powers for MEDQ's functions or powers)**

Clause 43 amends section 123 by amending the definition of "authorised employee or agent" to mean an EDQ employee or MEDQ agent who MEDQ authorises to exercise powers under this section" in subsection (6).

**Clause 44 Insertion of new s 123A**

Clause 44 inserts a new section 123A (Powers to remedy contravention of enforcement notice) that deals with powers to remedy contravention of enforcement notice.

Section 123A applies when a person does not follow the instructions provided in an enforcement notice issued by MEDQ under the Planning Act.

If the person doesn't comply, an authorised MEDQ employee or agent can enter the land without permission and take necessary action required under the enforcement notice. Prior to this, they must give at least 7 days' notice to the occupier, and the notice needs to state that the authorised employee or agent will be entering the land, the reason for the proposed entry and the day and time of the entry.

If the occupier of the relevant land is present, the authorised person, before entering the land, needs to show some form of identification to the person who lives or uses the land. The specific way they need to identify themselves is outlined in section 31.

The authorised officer must inform the occupier the reason as to why they are entering the land, and even though they have the legal right to enter without permission, should request the occupier's consent to enter.

Subsection 123A(5) grants MEDQ the power to seek reimbursement for the expenses incurred in addressing the issue arising from the person's failure to take the required action.

Subsection 123A(6) defines the terms:

*'Authorised employee or agent'* to mean an EDQ employee or MEDQ, agent who has been given an identity card under section 32ZY, and that card is still valid.

*'Relevant land'*, concerning an enforcement notice refers to the place where the required action must be taken as per the notice, but excludes a home from the definition of relevant land.

### **Clause 45 Insertion of new s 126A**

Clause 45 introduces a new section 126A (Direction to particular entities to provide information) after Section 126, empowering the MEDQ to issue a direction for the provision of information by specific entities, including distributor-retailers, government entities, or local governments.

Under Section 126A, MEDQ is authorised to give a written direction to an entity, compelling them to provide stated information by a designated time and in a specified manner.

However, such a direction may only be issued if MEDQ is satisfied that the information is necessary for the proper and orderly planning, development, and management of a PDA or PDA-associated land. The directed entity is obligated to comply with the directive, and in the context of this section, 'information' includes a document.

### **Clause 46 Replacement of ss 127 and 128**

Clause 46 amends existing section 127 (Direction to particular entities to accept transfer) to broaden the scope of this section to specifically include distributor-retailer.

Section 127 provides a head of power for MEDQ to issue a written direction to specific entities, including distributor-retailers, government entities, or local governments (referred to as 'directed entities'), for the acceptance of transfers.

An additional step has been added to s127 to require MEDQ to provide written notice of the proposed transfer to the directed entity at least 20 business days before issuing the directive.

If concerns or issues are raised by the directed entity and MEDQ proceeds with the directive, the instruction must include an explanation of how those concerns or issues were taken into account.

Revised section 128 (Direction to Particular entities to provide or maintain infrastructure) provides MEDQ with the authority to instruct specific entities, including distributor-retailers, government entities, or local governments (referred to as 'directed entities'), to provide or maintain designated infrastructure within or connected to a declared PDA or PDA-associated land.

An additional step has been added to section 128 to require MEDQ to provide written notice of the proposed transfer to the directed entity at least 20 business days before issuing the directive.

If concerns or issues are raised by the directed entity and MEDQ proceeds with the directive, the instruction must include an explanation of how those concerns or issues were taken into account.

Subsection 128(8) and (9) has been added which states that if actions required under the directive would typically necessitate water approval, they can be carried out without separate water approval. These compliance requirements and the water approval exception prevail over any other Act or law.

### **Clause 47 Amendment of s 129 (Application fees)**

Clause 47 updates section 129 (Amendment of s129 (Application fees)) to include provisions relating to associated planning and regulatory costs.

Section 129 provides that the fee for such applications cannot not surpass the actual cost of processing the application.

However, MEDQ has the authority to levy a reasonable fee component on PDA development applications, amendment applications, and applications for approvals referenced in section 104. This fee is intended to recoup the expenses incurred in making or amending the relevant development instruments, as well as covering the costs associated with the orderly planning, development, and management of a PDA or PDA-associated land.

### **Clause 48 Amendment of ch 4, hdg (Establishment etc. of other entities)**

Clause 48 modifies the heading of Chapter 4 by replacing 'Establishment etc.' with 'of board and committees.'

### **Clause 49 Replacement of s 131 (Board's functions)**

Clause 49 updates section 131 to amend the functions of the board, emphasising its pivotal role in determining the objectives, strategies, and policies for MEDQ, ensuring substantial compliance with strategic and operational plans, and adopting best practices in corporate governance, financial management, and accountability. The board must monitor and report on MEDQ's performance of its functions and powers, ensuring adherence to obligations under this Act or other laws.

The board also has another function given to it under this Act or another Act.

Section 131A (Board's powers) provides the board the authority to undertake anything necessary or convenient for the performance of its functions, and it also possesses powers specified under this Act or another Act.

### **Clause 50 Amendment of s 132 (Membership of the board)**

Clause 50 amends section 132 in relation to the membership of the Board.

Amended section 132 provides that the board consists of the chief executive of the department and the Under-Treasurer and at least 3 but no more than 6 other members appointed by the Governor in Council.

To be eligible for appointment as one of these other members, a person must have extensive knowledge or experience in areas like local government, land use planning, social policy, law, economics, accounting, construction or development industries, natural resource and environmental management, or business and financial management.

However, the CEO or executive officer of the EDQ employing office cannot be appointed as one of these other members. The members appointed under subsection (1)(b) can be either full-

time or part-time, and their appointment is governed by this Act, not the *Public Sector Act 2022*.

### **Clause 51 Replacement of s 133 (Chairperson and deputy chairperson)**

Clause 51 amends section 133 to include new provisions relating to the appointment of the chairperson and deputy chairperson.

Section 133 (Chairperson and deputy chairperson) provide that the Governor in Council may appoint a board member as the chairperson and another board member as the deputy chairperson. A board member can be appointed simultaneously as the chairperson or deputy chairperson. The term of office for the chairperson or deputy chairperson ends not later than the person's term as a board member. The deputy chairperson acts as chairperson during specified circumstances, and in the absence of both, a member chosen by a majority of the board members present acts as chairperson.

### **Clause 52 Amendment of s 134 (Terms and conditions of appointment etc.)**

Clause 52 amends section 134 to include terms and conditions of appointed board members.

Amended section 134 states that board members hold office for a term not exceeding four years as specified in their instrument of appointment. The remuneration and allowances for appointed board members are determined by the Governor in Council, and they hold office on terms and conditions decided by the Governor in Council, not provided for by the Act. Appointed board members may resign by giving signed notice to MEDQ.

Subsection 134(6) provides the circumstances in which the Governor in Council has the authority to terminate the appointment of a board member for various reasons, including criminal conviction, insolvency, disqualification under the Corporations Act, incapacity and ineligibility, as well as absence from 3 consecutive meetings without leave from the board or chairperson and without a reasonable excuse.

An appointment of a board member may also be ended if they engage in inappropriate or improper conduct in a private capacity, that reflects seriously and adversely on the office of the board member. This provision has been included to manage issues and protect the State's reputation and interests.

### **Clause 53 Replacement of s 135 (Disclosure of interests)**

Clause 53 replaces section 135 with new provisions under section 135, titled 'Disclosure of interests at board meetings.'

Section 135 applies when a board member has a material personal interest in a matter being considered at a board meeting. A material personal interest is defined to include entities connected to the board member, such as the member's spouse, family members, employer, and entities where the board member holds an office.

The affected board member must disclose the nature of the interest to other board members as soon as the relevant facts are known. The board member may only continue participating in the

meeting if a majority of other board members vote in favour, and the disclosure is recorded in the meeting minutes.

While a failure to disclose doesn't invalidate a board decision, the member cannot participate in any vote on the matter.

#### **Clause 54 Replacement of ss 137 and 138**

Clause 54 replaces sections 137 and 138 with new provisions.

Section 137 (Board meetings) is replaced with new provisions regarding board meetings. The chairperson is authorised to convene a meeting of the board members, and it is required to hold these meetings at least 6 times each year. Additionally, the chairperson must convene a meeting if requested in writing by at least half of the board members or the Minister.

Section 138 (Quorum at board meetings) is also replaced with new provisions concerning the quorum at board meetings. The quorum is defined as a majority of the board members, with the majority including a government board member mentioned in section 132(1)(a) and(b). Furthermore, if a board member is required under section 135 not to participate in deliberations for a specific matter, the remaining board members present at the meeting constitute a quorum.

#### **Clause 55 Omission of s 139 (Attendance by proxy)**

Clause 55 removes section 139.

#### **Clause 56 Amendment of s 159C (Membership)**

Clause 56 amends section 159C (Membership) to remove the requirement for a local consultative committee to include *the chief executive of the department or a senior executive nominated by the chief executive* and instead include the requirement for the local consultative committee to include the CEO or a senior executive nominated by the CEO.

The amendment to section 159C is required as a consequence of amendments under clause 9 to remove the provision for the MEDQ to be a part of the department for the purposes of the *Financial Accountability Act 2009*, and clause 18 to create the position of CEO.

#### **Clause 57 Amendment of s 169 (Delegations)**

Clause 57 amends section 169 relating to Delegations.

Amended section 169 ensures the MEDQ cannot delegate its functions or powers contained in the new chapter 2, part 3, division 3A of the Act relating to the acquisition of land.

Amended section 169 also provides the framework for the delegation of functions and powers by the MEDQ to include the CEO and the executive officer.

MEDQ is granted the authority to delegate its functions or powers, excluding those under chapter 5, part 3B, to a diverse range of recipients. These include the CEO, executive officer, board, board members, local representative committees, members of such committees, local

governments, the Cross River Rail Delivery Authority, and appropriately qualified employees of the EDQ employing office involved in mobility arrangements outlined in section 32ZH.

The CEO and executive officer are empowered to subdelegate the functions or powers delegated to them to appropriately qualified employees of the EDQ employing office.

Board members also have the authority to delegate their functions to appropriately qualified employees under mobility arrangements.

#### **Clause 58 Amendment of s 171K (Delegations)**

Clause 58 amends section 171K to enable MEDQ to delegate its functions or powers to the CEO, the executive officer or an appropriate qualified employee of EDQ in relation to provisions for Temporary Use Licences in Chapter 5 Part 3B.

#### **Clause 59 Amendment to section 172 (Registers)**

Clause 59 amends section 172 (Registers) to include a requirement for MEDQ to keep a register of: each extension to an interim land use plan, place renewal area declarations place renewal area frameworks, temporary planning instruments; and a description of the land to which each housing agreement entered into by MEDQ applies.

#### **Clause 60 Omission of s 174 (Matters to be included in department's annual report)**

Clause 60 removes the section titled 'Matters to be included in department's annual report'. This is as a result of MEDQ becoming a non-departmental entity.

## **Part 4 Transitional provisions for Economic Development Amendment Act 2024**

#### **Clause 61 Insertion of new ch 7, pt 4**

Clause 61 establishes transitional provisions within a newly introduced Chapter 7, Part 4.

Section 238 (Definitions for this part) defines the terms *former* and *new* for the purposes of this part in interpreting the transitional provisions.

Section 239 (Initial employees) applies to an individual, termed "an initial employee," who was previously employed as public service employee by the department before the commencement of the EDQ employing office and are subsequently employed by the EDQ employing office. The term initial employee also applies to a person who is employed as an employee of the EDQ employing office even if they were not a public service employee employed by the department immediately beforehand. The initial employee's terms and conditions of employment are the same as the terms of conditions applied immediately before the commencement to public service employees employed by the department under the existing instruments.

However, an initial employee ceases to be classified as such if a new certified agreement, pertaining to the person as an employee of the EDQ employing office, becomes effective.

Despite any other Act, this section applies.

References in this section to certified agreement is as per schedule 5 of the *Industrial Relations Act 2016*.

References to existing instruments in this section include the Queensland Public Service Officers and Other Employees Award—State 2015; the State Government Entities Certified Agreement 2023; and a public sector directive as they were in effect immediately before commencement.

Section 240 (Initial employee employed on fixed term contract before commencement) applies to an individual, referred to as "an initial employee," who was employed by the department on a fixed-term contract immediately before being employed by the EDQ employing office after the commencement, and clarifies nothing in this part affects the operation of the fixed-term contract.

Section 241 (MEDQ's first strategic and operation plans) provides that the MEDQ's first strategic and operation plans required under section 32E must be prepared and given to the Minister in draft within 2 months of commencement, or another period agreed between the board and the Minister.

Subsection (3) provides that if the draft plan has not been agreed within 2 months following the draft plan being given to the Minister by the board, the minister may give directions under new section 32F(3) about the draft plan.

Subsection (4) provides that the first strategic plan and operational plan applies for the remainder of the financial year and if agreed by the MEDQ and the Minister, for the following financial year.

Section 242 (MEDQ's first quarterly report) provides that requirement under new section 29 for the board to give the Minister a report on MEDQ's operations does not apply to the first quarter before the quarter in which the first operation plan is agreed to by the Minister.

Section 243 (Existing board member) addresses the status of individuals who currently serve as board members under the provisions of former section 132(1)(b), or (d) immediately before the commencement. This section stipulates that such individuals are deemed to be members under the new section 132 until their office is vacated pursuant to the new section 134.

Section 244 (References to department before commencement) provides that, where the context permits. A reference to the *department* in a document made under or relating to a former provision of this Act is taken as a reference to the MEDQ.

Section 245 (Publication on MEDQ's website) provides that a period for or within which a thing is required to be published on the departments website under a former provision is taken to be part of the period required for the thing to be published on the MEDQ's website under the new provision.

## Clause 62 Amendment of sch 1 (Dictionary)

Clause 62 amends Schedule 1, known as the 'Dictionary,' to introduce and modify various definitions. The changes include:

**Omission of "MEDQ employee":** The definition of "MEDQ employee" is removed from the schedule.

### Insertion of new definitions:

- *affected instrument*, for chapter 3, part 3A, see section 71AB(1).
- *affordable housing* see section 7B.
- *annual report*, for chapter 2, part 5, division 2, see section 32.
- *CEO* see section 32Q(1).
- *change*, for chapter 3, part 6, division 4, see section 117A
- *criminal history* of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.
- *development approval*, for chapter 3, part 6, division 4, see section 117A
- *EDQ employee*, for chapter 3, part 8, see section 122A.
- *EDQ employing office* see section 32ZE(1).
- *executive officer* means the executive officer of the EDQ employing office appointed under see section 32ZK(1).
- *gazette resumption notice* see the *Acquisition of Land Act 1967*, schedule 2.
- *housing agreement* see section 122AA(1)
- *infrastructure charges notice*, for chapter 3, part 6, division 4, see section 117A
- *minor change*, for chapter 4, part 6, division 4, see section 117A
- *operational plan* means MEDQ's operational plan made under chapter 2, part 5, division 3.
- *place renewal area* see section 104AA.
- *place renewal area declaration*, for chapter 3, part 4A, see section 104AC(1).
- *place renewal framework* see section 104AA.
- *relevant approval*, for chapter 3, part 6, division 4, see section 117A.
- *relevant area*, for an affected instrument, for chapter 3, part 3A, see section 71AA.
- *social housing* see section 7A.
- *State land* means—
  - unallocated State land; or
  - land held from the State under an interest less than fee simple.
- *State planning instrument* see the *Planning Act 2016*, section 8(2).
- *strategic plan* means MEDQ's strategic plan made under chapter 2, part 5, division 3.
- *temporary planning instrument* see section 71AB(1).
- *trunk infrastructure*, for chapter 3, part 6, division 4, see section 117A
- *unallocated State land* see the *Land Act 1994*, schedule 6.

**Modification of ‘minor administrative amendment’:** the term now includes ‘development scheme or interim land use plan’.

## **Part 3 Amendment of Planning Act 2016**

### **Clause 63 Act amended**

Clause 63 amends the *Planning Act 2016*.

### **Clause 64 Amendment of s 36 (Criteria for making or amending designations)**

Clause 64 (Amendment of s 36 (Criteria for making or amending designations)) provides for an amendment to the *Planning Act 2016* to include the requirement for a designator to have regard to a place renewal framework for a place renewal area in which the premises are located, when making or amendment a designation. This amendment expands the scope of factors that must be considered when making or amending designations to include place renewal frameworks where relevant.

## **Part 4 Amendment of Public Sector Act 2022**

### **Clause 65 Act amended**

Clause 65 includes a new Part 3 titled ‘Amendment of *Public Sector Act 2022*’.

### **Clause 66 Amendment of sch 1 (Public service entities under section 9(b))**

Clause 66 provides for the consequential amendments to the *Public Sector Act 2022* which see the inclusion of EDQ employing office under the *Economic Development Act 2012*.

## **Schedule 1 Other amendments**

Schedule 1 makes consequential amendments through out the Act to replace the term *the department’s website* with the *MEDQ’s website*.