

## Overview of Amendments to the ED Act

### 1 AMENDMENTS RELATED TO PDA BOUNDARIES AND INSTRUMENTS, AND PROVISIONAL PDAS INCLUDE:

- opportunity to extend the ILUP expiry period at the time of declaration – up to 2 years
- clarification of how to calculate the ILUP expiry date if the usual expiry period includes a caretaker period
- new provisions for making a minor change to a PDA boundary – to correct an error or promote proper and orderly planning, development and management of the affected land; the existing development scheme must be applied to the additional land in the PDA; requires consultation before preparation of instruments; proposed instruments for land included/excluded from the PDA have immediate effect
- option for a new PDA after PDA revocation (previously only the one option to return to an amended planning scheme) – provides for any non-minor change, for example, to incorporate existing PDA into new PDA (e.g. Woolloongabba into CRR PDA)
- ability to return to planning scheme after PDA revocation without requiring a planning scheme amendment if the planning scheme is satisfactory
- option for more than one interim land use or development scheme within a PDA to accommodate different planning timeframes
- development scheme to have effect by public notice in the gazette (similar to planning schemes) rather than by regulation
- more comprehensive definition of 'minor administrative amendment' – broadening of type of instrument that may be reflected (not just one under the Planning Act); includes an amendment to reflect a PDA development approval; also, amendments to correct or change a typographical error
- new approach to declaring provisional PDAs – consultation with the local government and public on a draft plan in place of planning scheme-related consideration criteria; immediate effect of draft plan and finalisation of plan following consultation within 60 business days; establishment of a local consultative committee as soon as practicable after declaration
- option for a regulation to specify an assessment category for particular development across all PDAs.

### 2 AMENDMENTS RELATED TO PDA CESSATIONS INCLUDE:

- more detailed provisions for the transition of complex PDA development approvals to development approvals under the Planning Act following PDA cessation
- additional provisions to manage subsequent changes to converted approvals
- option to make a cessation regulation for an individual PDA to address transitional matters
- recognition that in some cases part of a PDA development approval needs to convert to a water approval under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*
- new provisions for planning instrument changes (PICs) – a PIC may not be required if the existing planning scheme is appropriate or only a minor change is required which has been the subject of consultation; regulatory restrictions on planning schemes under the Planning Act do not apply.

### 3 AMENDMENTS RELATED TO PDA DEVELOPMENT APPLICATIONS, APPROVALS AND INFRASTRUCTURE AGREEMENTS INCLUDE:

- discretion for the Minister for Economic Development Queensland (MEDQ) to consider substantial compliance with notification requirements
- new provisions for lapsing of applications if no action by the applicant to respond to an information request or to provide a compliance statement about notification after a specified period (or a longer negotiated period)
- option for the MEDQ to refuse an application for repeated non-compliance with notification requirements; time periods may be extended by agreement
- new statutory notices from the MEDQ to advise: application is properly made; application will lapse if no information is given in response to an information request; the information request has been complied with; there is a requirement to give a compliance statement for an application that requires notification; the application has been refused for non-compliance with the information request or notification requirements
- new requirement for an applicant statement about compliance with the application notification requirements
- new provisions for registration of land for a public thoroughfare easement in favour of the local government when the local government is not responsible for construction and maintenance (modelled on provisions in the *Queens Wharf Brisbane Act 2016*)
- infrastructure agreements (IAs) under ED Act – extended to also include IAs under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*; confirmation that an IA will prevail to extent of any inconsistency over the PDA development approval
- clarification that public notification of the whole application is required if notification for a part of the application is required
- clarification that a PDA development approval condition may require compliance with an infrastructure agreement.

## Overview of Amendments to the ED Act continued

### 4 AMENDMENTS RELATED TO SIMILAR PROVISIONS IN THE PLANNING ACT INCLUDE:

- introduction of PDA accepted development to replace PDA exempt development and PDA self-assessable development
- new option to request a PDA exemption certificate
- requirement for owner's consent for works below high water mark
- further provision for refunding or waiving of fees
- updated covenant requirements related to a condition of development approval or infrastructure agreement rather than the development instrument
- enhanced enforcement powers using show cause notices and enforcement notices
- updated penalty units for offences
- more comprehensive entry powers for enforcement
- new provision for electronic service of documents.

### 5 AMENDMENTS RELATED TO OTHER MATTERS INCLUDE:

- provide for exclusion of offences of environmental nuisance for development carried out in accordance with a by-law - aligns with recognition given to local laws.
- provide for abolition of the Commonwealth Games Infrastructure Authority – the provisions are no longer required.
- provide for exemption from disclosure statements under the *Body Corporate and Community Management Act 1977* – the usual consumer protections are not required when selling back to developer

## Amendments to other Acts related to the ED Act

### 6 AMENDMENTS TO OTHER ACTS TO IMPROVE OPERATION OF THE ED ACT INCLUDE:

- ***Building Act 1975*** – provision for building approvals to be consistent with PDA development approvals in the same way that they must be consistent with development approvals under the Planning Act
- ***Environmental Protection Act 1994*** – provision to exclude offences of environmental nuisance if caused by development carried out under a PDA development approval - aligns with exclusions for Planning Act approvals
- ***South-East Queensland (Distribution and Retail Restructuring) Act 2009*** – insertion of notes related to ED Act provisions about converted water approvals following cessation of a PDA; cross reference to ED Act provisions stating that after cessation of a PDA, a water infrastructure agreement prevails over a converted water approval
- ***Exhibited Animals Act 2015*** – provision for PDA development approvals to be considered for an application under this Act in the same way that Planning Act approvals are considered
- ***Liquor Act 1992*** – provision for a PDA development approval to be considered when liquor licence and permit applications are decided in the same way that development approvals under the Planning Act are considered; provision for MEDQ to provide comment on particular applications
- ***Planning Act 2016*** – insertion of notes related to ED Act provisions about converted Planning Act approvals following cessation of a PDA; cross reference to ED Act provisions stating that after cessation of a PDA an infrastructure agreement prevails over a converted Planning Act approval even if the chief executive did not approve the agreement.

### 7 AMENDMENT TO OTHER ACTS TO IMPROVE THE OPERATION OF THOSE ACTS INCLUDE:

- ***Biosecurity Act 2014*** – inclusion of the ED Act as a relevant Act to avoid emergency actions constituting an offence similar to Planning Act
- ***Coastal Protection and Management Act 1995*** – inclusion of a reference to PDA accepted development in provisions dealing with carrying out tidal works and the right to occupy land
- ***Housing Act 2003*** – to avoid doubt, specific mention of the ED Act as an 'applicable law' that development of public housing premises is taken to be carried out in accordance with; for existing public housing, recognition of material change of use under ED Act to avoid further regulation if public housing is transferred
- ***Land Valuation Act 2010*** – consideration of instruments under the ED Act when determining land values in the same way that planning schemes under the Planning Act are considered
- ***Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*** – provision for PDA development approvals to be considered in decisions under this Act in the same way that development approvals under the Planning Act are considered.