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Land, Water and Other Legislation Amendment Bill 2013

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# Land, Water and Other Legislation Amendment Bill 2013

## Explanatory Notes for amendments to be moved during consideration in detail by the Honourable Andrew Cripps MP the Minister for Natural Resources and Mines

### Title of the Bill

The short title of the Bill is the *Land, Water and Other Legislation Amendment Bill 2013*.

### Objectives of the Amendments

#### *State Assessment and Referral Agency*

The objectives of the amendments are to ensure the effective operation of the provisions under the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* which enable the chief executive administering the *Sustainable Planning Act 2009* to be the State Assessment and Referral Agency.

The State Assessment and Referral Agency will manage matters across departments and provide a coordinated assessment or response to development applications for which the state government has jurisdiction.

Amendments are necessary to:

- clarify the jurisdiction of the chief executive as the State Assessment and Referral Agency;
- ensure that all relevant entities preserve their investigation and enforcement functions;
- ensure that the chief executive, as the assessment manager for development on airport land, can continue to set lawful conditions;
- clarify when a change to a development approval is permissible;

- enable the chief executive as the State Assessment and Referral Agency to assume the conditioning powers of a State infrastructure provider without limiting a State infrastructure provider in providing infrastructure;
- ensure that the State Assessment and Referral Agency only applies to development applications made after its commencement; and
- enable the State Assessment and Referral Agency to process requests to change:
  - development approvals given before the commencement; and
  - development approvals given after the commencement for which the development applications were made before commencement.

*Water Act 2000 – Definition of Levee-related infrastructure*

The objective of the amendment is to remove any ambiguity surrounding the definition of 'levee-related infrastructure'. Clause 306 of the Bill amends Schedule 4 definitions within the *Water Act 2000*. The definition of 'levee - related infrastructure' is missing the word 'flow' after 'overland' creating ambiguity about the application and scope of the definition.

*Water Act 2000 - Development application appeals relating to referable dams*

The objective of the amendment is to amend clause 301 (new section 972B) which provides for when an applicant may appeal to the Land Court against a decision about a development application to remove the reference to development applications relating to referable dams. This amendment is necessary as it duplicates section 562 of the *Water Supply (Safety and Reliability) Act 2008* (Water Supply Act). It is more appropriate for this provision to be in the Water Supply Act as the assessment manager for development applications' relating to referable dams is the chief executive administering the Water Supply Act.

*Water Act 2000 - Commencement provision amendments*

Declared catchment areas

The objective of the amendment is to change the commencement of the amendments to the *Water Act 2000* in clause 264 which omits Chapter 2, Part 7 of the *Water Act 2000* which provides for the declaration of catchment areas (declared catchment areas) to commence by proclamation, not assent. It is necessary for the commencement of this clause to align the release of the Single State Planning Policy to ensure there is no gap in the regulation of development in these catchment areas.

Water licence renewals

The objective of the amendment is to change the commencement of the amendments to the *Water Act 2000* in clauses 259, 260, 261 and 288 to commence by proclamation. These clauses provide for the expiry of water licences on 30 June 2111. It is necessary for the commencement of these clauses to be delayed to allow time for the Department of Natural Resources and Mines to make the necessary licensing system modifications.

#### Watercourse diversions

The objective of the amendment is to change the commencement of the amendments to the *Water Act 2000* in clause 228 to commence by proclamation. Clause 228 provides that diversion-type interference works, associated with a resource activity, are exempt from requiring a water licence if the works are authorised under an environmental authority granted under the *Environmental Protection Act 1994*. It is necessary for the commencement of this clause to be delayed to allow time for the Department of Natural Resources and Mines and the Department of Environment and Heritage Protection to finalise a memorandum of understanding which will guide the assessment of those diversions, and also develop standard conditions and a guideline for assessing applications.

#### *Water Act 2000 - Closed Water Supply Agreement*

The objective of the amendment is to change the Closed Water Supply Agreement definition and references to ensure that drainage boards have the ability to utilise the new private contract framework.

#### *Water Act 2000 - Public notification*

The objective of the amendment is to change the manner of publication to provide discretion to the chief executive in determining the most appropriate method of publication, in addition to publishing a gazette notice. This is required as clauses 270 and 272 currently require publication to occur in the same manner as the relevant water authority's establishment proposal was published, which may not be appropriate in today's environment for pre *Water Act 2000* water authorities.

#### *Water Act 2000 – Section 20 references*

The objective of the amendment is to update references to section 20 in the *Water Act 2000* to reflect the amendments made by the Bill to section 20.

#### *Acquisition of Land Act 1967 – Usage of the term “parcel”*

It is necessary to amend the definition of 'parcel' included in the Bill to ensure that there are no unintended consequences for the interpretation of other definitions in the *Acquisition of Land Act 1967*, particularly in relation to the definition of 'land'. 'Land' is defined in the *Acquisition of Land Act 1967* as including any estate or interest in land. The definition of 'parcel' as currently drafted may result in uncertainty regarding the inclusion of easements within the definition of 'land'.

#### *Land Title Act 1994, Land Act 1994 and Electronic Conveyancing National Law (Queensland) Bill 2012*

The objective of the amendment is to ensure that the requirements under the *Land Title Act 1994* and the *Land Act 1994* for a joint tenant to unilaterally sever a joint tenancy by registration of a transfer are consistent with provisions of the *Electronic Conveyancing National Law (Queensland) Act 2013*.

## **Achievement of Policy Objectives**

### *State Assessment and Referral Agency*

Amendments to the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* are necessary to ensure the effective operation of the State Assessment and Referral Agency from commencement.

The amendments provide that when assessing a development application as State Assessment and Referral Agency, the chief executive is not bound by the mandatory requirements imposed on an assessment manager or referral agency under an Act, other than the *Sustainable Planning Act 2009*.

The amendments make it clear that decisions made by the chief executive are made under the jurisdiction of the *Sustainable Planning Act 2009* and not under other Acts for which the chief executive has no jurisdiction. The chief executive's jurisdiction under the *Sustainable Planning Act 2009* is prescribed under the Sustainable Planning Regulation 2009.

New provisions enable all relevant entities to retain the necessary functions for the purposes of investigation and enforcement of a development approval, conferred on them under an Act, other than the *Sustainable Planning Act 2009*. This ensures that a relevant entity can continue to exercise the powers given to them under legislation to carry out investigative and enforcement processes, after the commencement of the State Assessment and Referral Agency.

An additional provision ensures that after the commencement of the State Assessment and Referral Agency, approvals given by the chief executive for development on airport land can continue to be conditioned in accordance with the *Airport Assets (Restructuring and Disposal) Act 2008*. The amendment ensures that the chief executive is not restricted from imposing conditions on the approval that require monetary contributions for infrastructure provided by local government.

An amendment clarifies the requirements a proposed change to a development approval must satisfy in order to be a permissible change.

Amendments enable the chief executive to impose conditions about State infrastructure in the same way State infrastructure providers can. This ensures that the chief executive, when not the provider of the infrastructure, can impose conditions about State infrastructure and works required to protect its operation.

An amendment clarifies that the provisions relating to the chief executive as State Assessment and Referral Agency only apply to development applications made after commencement of the State Assessment and Referral Agency. The amendment makes it clear that development applications made before the commencement of the State Assessment and

Referral Agency are assessable under the provisions in force immediately before commencement.

New provisions enable the chief executive to be the relevant entity for changes to development approvals given before the commencement of the State Assessment and Referral Agency. The provisions also enable the chief executive to be the relevant entity for changes to development approvals given after the commencement for which the relevant development applications were made before the commencement of the State Assessment and Referral Agency.

These amendments ensure that the chief executive has responsibility for deciding requests to change development approvals where another State entity would have previously been responsible. This enables the State Assessment and Referral Agency to operate where possible, as a comprehensive 'one stop shop' for development assessment matters.

An amendment to the definition of State infrastructure provider ensures that after the State Assessment and Referral Agency commences, public sector entities, other than local governments, can continue to provide the infrastructure and enter into infrastructure agreements where necessary.

*Water Act 2000 – Definition of 'levee-related infrastructure'*

The amendment to clause 306 of the Bill inserts the word 'flow' after 'overland' which ensures that the definition appropriately captures 'overland flow water' as defined in the *Water Act 2000*.

*Water Act 2000 - Development application appeals relating to referable dams*

The amendment achieves the policy objective as it omits subsection (1)(b)(ii) from new section 972B (clause 301) thereby removing the reference to development applications involving referable dams. As such, new section 972B will provide for when an applicant may appeal to the Land Court against a decision about a development application for operational work relating to the taking or interfering with water.

*Water Act 2000 - Commencement provision amendments*

Declared catchment areas

The amendment achieves the policy objective as it provides for the amendments to clause 264 which omits Chapter 2, Part 7 of the *Water Act 2000* that provides for the declaration of catchment areas, to commence by proclamation.

Water licence renewals

The amendment achieves the policy objective as it provides for the amendments to clauses 259, 260, 261 and 288 which provides for the expiry of water licences on 30 June 2111, to commence by proclamation.

Watercourse diversions

The amendment achieves the policy objective as it provides for the amendments to clause 228 which provides that diversion-type interference works, associated with a resource activity, are exempt from requiring a water licence if the works are authorised under an environmental authority granted under the *Environmental Protection Act 1994*, to commence by proclamation.

*Water Act 2000 - Closed Water Supply Agreement*

The amendment achieves the policy objective by amending the definition of closed water supply agreement and associated references, to allow drainage boards to utilise the new framework.

*Water Act 2000 - Public notification*

The amendment achieves the policy objective of providing flexibility to the chief executive in determining the suitable manner of publication by amending clauses 270 and 272 to insert this discretion into the clauses. To also ensure gazette notices are published for sections 556 and 598A, this requirement will be re-inserted.

*Water Act 2000 – Section 20 references*

The amendment achieves the policy objective by replacing the references to existing section 20 in the *Water Act 2000* to reflect the amendments made to section 20 in the Bill to ensure the sections reference the correct provisions in new sections 20, 20A and 20C.

*Acquisition of Land Act 1967 – Usage of the term ‘parcel’*

The amendment clarifies that the definition of ‘parcel’ does not limit the scope of the definition of ‘land’.

*Land Title Act 1994, Land Act 1994 and Electronic Conveyancing National Law (Queensland) Bill 2012*

The amendment will achieve the policy objective by modifying:

- Clause 93 to require a person unilaterally severing a joint tenancy by registration of a transfer to satisfy the chief executive that a copy of the transfer has been given to all other joint tenants or that a reasonable attempt has been made to do so or, if the transfer is an electronic conveyancing document, to satisfy the chief executive that the person has given notice to all other joint tenants of their intention to sever the joint tenancy, or that a reasonable attempt has been made to do so.

- Clause 118 to require a person unilaterally severing a joint tenancy by registration of an instrument of transfer to satisfy the registrar of titles that a copy of the instrument has been given to all other joint tenants or that a reasonable attempt has been made to do so or, if the instrument is an electronic conveyancing document to satisfy the registrar that the person has given notice to all other joint tenants of their intention to sever the joint tenancy, or that a reasonable attempt has been made to do so.

### **Alternative Ways of Achieving Policy Objectives**

There is no alternative way of providing and clarifying the necessary powers of the chief executive as State Assessment and Referral Agency.

There is no alternative way of achieving the additional policy objectives as they require amendment to existing clauses of the Bill.

### **Estimated Cost for Government Implementation**

#### *State Assessment and Referral Agency*

Enabling the chief executive to assume responsibility for particular functions as the State Assessment and Referral Agency is unlikely to have any significant impact on the existing administrative costs to the state.

Enabling relevant entities to retain any function conferred on them under any Act for the purposes of investigation and enforcement will not result in an operational change.

Enabling the chief executive to continue to impose conditions on approvals for development on airport lands will not result in an operational change.

Enabling State infrastructure providers to continue to provide State infrastructure and enter into infrastructure agreements as they can under the existing 'multiple' State assessment manager and referral agency model, will not result in an operational change.

#### *Other amendments*

The additional amendments to the Bill do not result in any additional cost for government implementation.

## **Consistency with Fundamental Legislative Principles**

The proposed amendments are consistent with fundamental legislative principles and have sufficient regard to the rights and liberties of individuals.

## **Consultation**

No consultation has been undertaken in relation to the proposed amendments.

The proposed amendments are consistent with the original policy intent under the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* to establish and ensure the effective operation of the State Assessment and Referral Agency from commencement.

No consultation has been undertaken in relation to the additional amendments. The amendments seek to ensure the policy intent of the Bill is achieved.

## Notes on Provisions

### Amendment 1

**Amendment 1 amends clause 2 (Commencement)** to provide that the amendments included in clauses 93 and 118 commence by proclamation. This will ensure that these amendments commence after commencement of the *Electronic Conveyancing National Law (Queensland) Act 2013*, sections 28 and 41.

### Amendment 2

**Amendment 2 amends clause 24 (Insertion of new ss 3 and 4)** by inserting ‘easements’ into the definition of ‘parcel’ for the *Acquisition of Land Act 1967*. This amendment was necessary to avoid any unintentional restriction on the broad or general interpretation of ‘land’ and to ensure that the term ‘parcel’ could not be interpreted to exclude easements.

### Amendment 3

**Amendment 3 amends clause 93 (Amendment of s 322A (Severing joint tenancy by transfer))** to take account of a prior amendment made to section 322A of the *Land Act 1994* by the *Electronic Conveyancing National Law (Queensland) Act 2013*. The amendment will require a person who wishes to unilaterally sever a joint tenancy by registration of a transfer, to satisfy the chief executive that a copy of the transfer has been given to all other joint tenants or that a reasonable attempt has been made to do so. However, if the transfer is an electronic conveyancing document, the requirement will be to satisfy the chief executive that the person has given notice to all other joint tenants of their intention to sever the joint tenancy, or that a reasonable attempt has been made to do so.

### Amendment 4

**Amendment 4 amends clause 118 (Amendment of s 59 (Severing of joint tenancy))** to take account of a prior amendment made to section 59 of the *Land Title Act 1994* by the *Electronic Conveyancing National Law (Queensland) Act 2013*. The amendment will require a person who wishes to unilaterally sever a joint tenancy by registration of an instrument of transfer, to satisfy the registrar that a copy of the instrument or written notice of the person’s intention to sever the joint tenancy has been given to all other joint tenants or that a reasonable attempt has been made to do so. However, if the instrument is an electronic conveyancing document, the requirement will be to satisfy the chief executive that the person has given notice to all other joint tenants of their intention to sever the joint tenancy, or that a reasonable attempt has been made to do so.

## Amendment 5

**Amendment 5** after clause 203, inserts new Part 15A (Amendment of the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012*).

**New clause 203A (Act amended)** provides that Part 15A amends the provisions of the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* that have not commenced. An editor's note makes it clear that as the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* amends the *Sustainable Planning Act 2009*, the amendments ultimately amend the *Sustainable Planning Act 2009*

**New clause 203B (Amendment of s 2 (Commencement))** amends section 2 of the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* which identifies the provisions that commence by proclamation. The amendment inserts references to additional provisions to ensure that all provisions relating to the State Assessment and Referral Agency will commence by proclamation.

**New clause 203C (Amendment of s 35 (Insertion of new ch 6, pt 1, div 4, sdiv 2A))** amends section 35 of the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* which establishes the requirements for the chief executive as State Assessment and Referral Agency, to insert amended section 255E (Relationship with other Acts) into the *Sustainable Planning Act 2009*.

Amended section 255E(1) makes it clear that the chief executive as State Assessment and Referral Agency will become the assessment manager or referral agency for certain development applications. The amendment clarifies that only the requirements under the *Sustainable Planning Act 2009* apply to the chief executive as State Assessment and Referral Agency and that decisions made by the chief executive are made under the jurisdiction of the *Sustainable Planning Act 2009*. The jurisdiction of the chief executive is prescribed under the *Sustainable Planning Regulation 2009*.

New section 255E(11) provides that the functions of investigation and enforcement given to a relevant entity under another Act, apply to a relevant entity taken to be the assessment manager or referral agency under new subsection (12). The amendment ensures that relevant entities can continue to undertake necessary actions for the purposes of investigation and enforcement of a development approval, after the commencement of the State Assessment and Referral Agency.

New section 255E(12) provides that for an investigative or enforcement purpose, the relevant entity is taken to be the assessment manager or referral agency.

New section 255E(13) provides that the chief executive when deciding applications on airport land can continue to impose conditions under the *Airport Assets (Restructuring and Disposal) Act 2008*. The amendment ensures that the chief executive is not restricted from imposing

conditions on the approval to require monetary contributions for infrastructure provided by local government, which is not permitted under the *Sustainable Planning Act 2009*.

Previous section 255E(11) which contained definitions for the section is renumbered as section 255E(14).

**New clause 203D (Insertion of new s 51A)** inserts section 51A into the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012*, which amends section 367 (What is a *permissible change* for a development approval) of the *Sustainable Planning Act 2009*.

Section 51A amends section 367(1) which establishes the requirements a proposed change to a development approval must satisfy in order to be a permissible change, to clarify when a change to a development approval is a permissible change. The amendment makes it clear that a change to a development approval is not a permissible change if, because of the change, a remade application for the approved development including the change would be required to be referred to additional concurrence agencies or involve impact assessment.

The amendments clarify the original intent of section 367, that a change is not prevented from being a permissible change if the law in force at the time the change was requested triggered the additional referrals for the application, or increased the level of assessment to impact assessment.

An amendment to section 367(2) removes 'the (applicable law)', as with the removal of section 367(3) the term is no longer used and therefore no longer required.

Section 367(3) is removed as the provision was unclear and has resulted in confusion. Section 367(3) is no longer required as the intent of the section is provided for in the amendment to section 367(1) which clarifies that it is the change to the approval that is relevant.

**New clause 203E (Insertion of new ss 84A to 84F)** inserts new sections 84A to 84F into the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* which amends chapter 8, part 1, division 8 (Conditions State infrastructure providers may impose for infrastructure) of the *Sustainable Planning Act 2009*.

New section 84A amends the heading of chapter 8, part 1, division 8 to include the chief executive in addition to State infrastructure provider, to make it clear that the chief executive and State infrastructure providers may impose conditions for infrastructure.

New section 84B amends the heading of section 653 (Conditions State infrastructure provider may impose) to 'Conditions chief executive and State infrastructure provider may impose', to make it clear that the chief executive and State infrastructure providers may impose conditions for infrastructure.

The amendment of section 653(1) includes the chief executive in addition to State infrastructure provider and provides that either are taken to be the 'imposing entity' under this division of the *Sustainable Planning Act 2009*. Amended section 653(5) replaces State infrastructure provider with 'imposing entity' to make it clear that the provisions apply to the chief executive or State infrastructure providers.

New section 84C amends section 654 (Requirements for conditions about safety or efficiency) to replace State infrastructure provider with 'imposing entity', to make it clear that the requirements for conditions about safety or efficiency apply to the chief executive or State infrastructure providers.

New section 84D amends section 655 (Requirements for conditions about additional infrastructure costs) to replace State infrastructure provider with 'imposing entity', to make it clear that the requirements for conditions about additional infrastructure costs apply to the chief executive or State infrastructure providers.

New section 84E amends the heading of section 656 (State infrastructure provider additional infrastructure costs in priority infrastructure areas) to 'Additional infrastructure costs in priority infrastructure areas'. The amendment of section 656(1) and (2) replaces State infrastructure provider with 'imposing entity', to make it clear that this section applies to the chief executive or State infrastructure providers.

New section 84F amends the heading of section 657 (State infrastructure provider additional infrastructure costs outside priority infrastructure areas) to 'Additional infrastructure costs outside priority infrastructure areas'.

**New clause 203F (Amendment of s 122 (Insertion of new ch 10, pt 6))** amends section 122 of the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* which establishes the transitional provisions for the *Sustainable Planning Act 2009*. The clause amends section 944 (Development applications not decided on commencement) and inserts new section 944A (Chief executive is assessment manager and concurrence agency for ch 6, pt 8, divs 2 and 5).

Amended section 944(1) makes it clear that this section applies to development applications made but not decided before the commencement of the State Assessment and Referral Agency.

Amended section 944(2) provides that the provisions in force immediately before the commencement of the State Assessment and Referral Agency apply to development applications made but not decided before the commencement of the State Assessment and Referral Agency.

New section 944A(1) relates to requests to change relevant development approvals, which are development approvals given before the commencement of the State Assessment and

Referral Agency and development approvals given after the commencement for which the relevant development applications were made before commencement. The section applies if an entity other than the chief executive was the assessment manager or a concurrence agency for these approvals and, if the applications were to be remade after commencement, the entity would be the chief executive.

New section 944A(2) provides that for these approvals, the chief executive is taken to be the relevant entity (i.e. the assessment manager or referral agency) for deciding requests to change development approvals or to extend periods of approval.

New section 944A(3) provides a definition of what is a relevant development approval for this section.

**New clause 203G (Amendment of s 123 (Amendment of sch 3 (Dictionary))** amends section 123 of the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* which amends schedule 3 (Dictionary) of the *Sustainable Planning Act 2009*.

Amended section 123 amends the definition of State infrastructure provider to replace 'concurrence agency' with 'public sector entity, other than a local government'. The amendment ensures a State infrastructure provider can continue to provide infrastructure and enter into infrastructure agreements where necessary, even where they are not a concurrence agency, after the State Assessment and Referral Agency commences.

## **Amendment 6**

**Amendment 6 omits clause 228 (Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement))** which provides that diversion-type interference works, associated with a resource activity, are exempt from requiring a water licence if the works are authorised under an environmental authority granted under the *Environmental Protection Act 1994*. The clause is omitted because the commencement of this amendment is now to occur by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines and the Department of Environment and Heritage Protection to finalise a memorandum of understanding which will guide the assessment of those diversions, and also develop standard conditions and a guideline for assessing applications.

## **Amendment 7**

**Amendment 7 omits clause 259 (Amendment of ch 2, pt 6, div 2, sdiv 2 (Contents and conditions of water licence))** which amends the heading of Chapter 2, Part 6, Division 2, Subdivision 2 to provide that the subdivision applies to the content, terms and conditions applicable to water licences. The clause is omitted because the amendment relates to the proposed extension in the Bill of the expiry of water licences on 30 June 2111. It is necessary for the commencement of this and other clauses that relate to that amendment to water

licence expiry timeframes to be delayed and commence by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines to make the necessary licensing system modifications. Amendment 26 reinserts this provision in the part of the Bill that commences by proclamation.

### **Amendment 8**

**Amendment 8 omits clause 260 (Amendment of s 213 (Contents of water licence))** to reflect the insertion of new section 213A which details the changes made to the expiry timeframes for water licences in Queensland. It is necessary for the commencement of this and other clauses that relate to that amendment to water licence expiry timeframes to be delayed and commence by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines to make the necessary licensing system modifications. Amendment 26 reinserts this provision in the part of the Bill that commences by proclamation.

### **Amendment 9**

**Amendment 9 omits clause 261 (Insertion of s 213A)** which inserts new section 213A into the *Water Act 2000* to provide that water licences generally expire on 30 June 2111. It is necessary for the commencement of this and other clauses that relate to that amendment to water licence expiry timeframes be delayed and commence by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines to make the necessary licensing system modifications. Amendment 26 reinserts this provision in the part of the Bill that commences by proclamation.

### **Amendment 10**

**Amendment 10 omits clause 264 (Omission of ch 2, pt 7 (Catchment areas))** which removes chapter 2, part 7 which provides for the declaration of catchment areas (declared catchment areas) as their role in preserving water quality is also provided for in planning instruments under the *Sustainable Planning Act 2009* and environmental approvals under the *Environmental Protection Act 1994*. The clause is being omitted because it is necessary for the commencement of this clause to occur by proclamation rather than Royal Assent to align with the release of the Single State Planning Policy to ensure there is no gap in the regulation of development in these catchment areas. Amendment 26 reinserts this provision in the part of the Bill that commences by proclamation.

### **Amendment 11**

**Amendment 11 amends clause 270 (Amendment of s 556 (Amending establishment regulation))** to change the manner of publication to provide discretion to the chief executive in determining the most appropriate method of publication, in addition to publishing a gazette

notice. This is required as clause 270 currently requires publication to occur in the same manner as the relevant water authority's establishment proposal was published, which may not be appropriate in today's environment for pre-*Water Act 2000* water authorities.

### **Amendment 12**

**Amendment 12 amends clause 272 (Amendment of s 598A (Changing the composition of a board))** to change the manner of publication to provide discretion to the chief executive in determining the most appropriate method of publication, in addition to publishing a gazette notice. This is required as clause 272 currently requires publication to occur in the same manner as the relevant water authority's establishment proposal was published, which may not be appropriate in today's environment for pre-*Water Act 2000* water authorities.

### **Amendment 13**

**Amendment 13 amends clause 279 (Insertion of new s 695A)** to omit new section 695A of the *Water Act 2000* which creates the requirements necessary for a closed water supply agreement, a new type of alternative institutional structure into which a water authority may dissolve in accordance with section 691(1)(b) of the *Water Act 2000* and insert a revised new section 695A. The revised new section 695A also applies to drainage boards so that they have the ability to utilise the new private contract framework. As a consequence, the private contract is now referred to as a 'closed water activity agreement'.

### **Amendment 14**

**Amendment 14 amends clause 279 (Insertion of new s 695A)** to make a minor amendment to reflect the fact that drainage boards have the ability to utilise the new private contract framework, and enter into a 'closed water activity agreement'.

### **Amendment 15**

**Amendment 15 amends clause 279 (Insertion of new s 695A)** to make a minor amendment to reflect the fact that drainage boards have the ability to utilise the new private contract framework, and enter into a 'closed water activity agreement'.

### **Amendment 16**

**Amendment 16 amends clause 279 (Insertion of new s 695A)** to make a minor amendment to reflect the fact that drainage boards have the ability to utilise the new private contract framework, and enter into a 'closed water activity agreement'.

### **Amendment 17**

**Amendment 17 amends clause 280 (Amendment of s 696 (Procedure before authority is dissolved to convert to alternative institutional structures))** to make a minor amendment to reflect the fact that drainage boards have the ability to utilise the new private contract framework, and enter into a ‘closed water activity agreement’.

### **Amendment 18**

**Amendment 18 amends clause 280 (Amendment of s 696 (Procedure before authority is dissolved to convert to alternative institutional structures))** to make a minor amendment to reflect the fact that drainage boards have the ability to utilise the new private contract framework, and enter into a ‘closed water activity agreement’.

### **Amendment 19**

**Amendment 19 amends clause 281 (Amendment of s 703 (Continuing legal proceedings))** to make a minor amendment to reflect the fact that drainage boards have the ability to utilise the new private contract framework, and enter into a ‘closed water activity agreement’.

### **Amendment 20**

**Amendment 20 omits clause 283 (Amendment of s 966 (Additional criteria for assessing development applications)).** Clause 283 amends section 966 of the *Water Act 2000* (the Act) to remove references to ‘declared catchment areas’ consequential to the removal of declared catchment areas from the Act. The clause is being omitted because it is necessary for the commencement of this clause to occur by proclamation rather than Royal Assent to align the release of the Single State Planning Policy to ensure there is no gap in the regulation of development in these catchment areas. Amendment 27 reinserts this provision in the part of the Bill that commences by proclamation.

### **Amendment 21**

**Amendment 21 amends clause 288 (Insertion of new ch 9, pt 6)** to omit new section 1235 of the *Water Act 2000* which is inserted by clause 288 of the Bill. New section 1235 provides that, subject to cancellation or surrender, the expiry dates stated on existing water licences are no longer relevant in determining the expiry of the licence and that instead the expiry is governed by new section 213A (the effect of which is to extend the term of all currently issued water licences until 30 June 2111). It is necessary for the commencement of this and other clauses that relate to that amendment to water licence expiry timeframes to be delayed and commence by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines to make the necessary licensing system modifications.

Amendment 33 reinserts this provision in the part of the Bill that commences by proclamation.

## **Amendment 22**

**Amendment 22 amends clause 289 (Amendment of sch 4 (Dictionary))** to omit that part of the amendment that deletes the definition of 'declared catchment area' from the dictionary of the *Water Act 2000*. The omission is being made because it is necessary for the commencement of this clause to occur by proclamation rather than Royal Assent to align the release of the Single State Planning Policy to ensure there is no gap in the regulation of development in these catchment areas. Amendment 34 reinserts this provision in the part of the Bill that commences by proclamation.

## **Amendment 23**

**Amendment 23 amends clause 289 (Amendment of sch 4 (Dictionary))** to change the definition of 'closed water supply agreement' to 'closed water activity agreement'. This amendment reflects the fact that Closed Water Supply Agreements are being made available to drainage boards so that they have the ability to utilise the new private contract framework.

## **Amendment 24**

**Amendment 24 amends clause 289 (Amendment of sch 4 (Dictionary))** to reflect the reinsertion of new section 695A of the *Water Act 2000* which reflects the fact that Closed Water Supply Agreements are now referred to as 'closed water activity agreements' to ensure drainage boards have the ability to utilise the new private contract framework.

## **Amendment 25**

**Amendment 25 before clause 290**, inserts a new section 289A into the *Water Act 2000* (Amendment of section 20 (Authorised taking of, or interference with, water without water entitlement) which provides that diversion-type interference works, associated with a resource activity, are exempt from requiring a water licence if the works are authorised under an environmental authority granted under the *Environmental Protection Act 1994*.

This amendment reinserts this provision in the part of the Bill that commences by proclamation, because it is necessary for the commencement of this clause to occur by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines and the Department of Environment and Heritage Protection to finalise a memorandum of understanding which will guide the assessment of those diversions and also develop standard conditions and a guideline for assessing applications. This amendment reinserts this provision in the part of the Bill that commences by proclamation, they were omitted from the part commencing by Royal Assent by Amendment 6.

## **Amendment 26**

**Amendment 26 after clause 292**, inserts new clauses 292A, 292B, 292C into the *Water Act 2000*. These clauses reinsert the former contents of clauses 259, 260, 261 of the Bill. These clauses provide for the expiry of water licences on 30 June 2111. The new clauses are inserted because it is necessary for the commencement of these clauses to be delayed and commence by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines to make the necessary licensing system modifications. This amendment reinserts these provisions in the part of the Bill that commences by proclamation, they were omitted from the part commencing by Royal Assent by Amendments 7, 8 and 9.

Amendment 26 also inserts a new section 292D into the *Water Act 2000* which removes chapter 2, part 7 (Catchment areas) which provides for the declaration of catchment areas as their role in preserving water quality is also provided for in planning instruments under the *Sustainable Planning Act 2009* and environmental approvals under the *Environmental Protection Act 1994*. This amendment reinserts this provision in the part of the Bill that commences by proclamation, because it is necessary for the commencement of this clause to occur by proclamation rather than Royal Assent to align with the release of the Single State Planning Policy to ensure there is no gap in the regulation of development in these catchment areas. This amendment reinserts this provision in the part of the Bill that commences by proclamation, they were omitted from the part commencing by Royal Assent by Amendment 10.

## **Amendment 27**

**Amendment 27 after clause 300**, inserts a new clause 300A which amends section 966 of the *Water Act 2000* (the Water Act) to remove references to 'declared catchment areas' consequential to the removal of declared catchment areas from the Water Act. This amendment reinserts this provision in the part of the Bill that commences by proclamation, because it is necessary for the commencement of this clause to occur by proclamation rather than Royal Assent to align the release of the Single State Planning Policy to ensure there is no gap in the regulation of development in these catchment areas. This amendment reinserts this provision in the part of the Bill that commences by proclamation, they were omitted from the part commencing by Royal Assent by Amendment 20.

## **Amendment 28**

**Amendment 28 amends clause 301 (Replacement of ch 8, pt 2)** new section 971 of the *Water Act 2000* (Interfering with overland flow water in particular areas) by omitting an unnecessary reference to 'assessable development'. Since the section only relates to 'development applications' there is no need to make further references to 'assessable development'.

### **Amendment 29**

**Amendment 29 amends clause 301 (Replacement of ch 8, pt 2)** new section 972 of the *Water Act 2000* (Operational work) by omitting an unnecessary reference to ‘assessable development’. Since the section only relates to ‘development applications’ there is no need to make further references to ‘assessable development’.

### **Amendment 30**

**Amendment 30 amends clause 301 (Replacement of ch 8, pt 2)** new section 972A of the *Water Act 2000* (Removal of quarry material) by omitting an unnecessary reference to ‘assessable development’. Since the section only relates to ‘development applications’ there is no need to make further references to ‘assessable development’.

### **Amendment 31**

**Amendment 31 amends clause 301 (Replacement of ch 8, pt 2)** new section 972B (When an applicant may appeal to Land Court) of the *Water Act 2000* to omit subsection (1)(b)(ii) thereby removing the reference to development applications involving referable dams. This amendment is necessary as it duplicates section 562 of the *Water Supply (Safety and Reliability) Act 2008* (Water Supply Act). It is more appropriate for this provision to be in the Water Supply Act as the assessment manager for development applications’ relating to referable dams is the chief executive administering the Water Supply Act.

### **Amendment 32**

**Amendment 32 amends clause 303 (Insertion of new ch 9, pt 6, div 1, hdg)** by omitting reference to ‘before section 1235’ from the provision which inserts a new section 1235 into the *Water Act 2000*. New section 1235 of the *Water Act 2000* provides that, subject to cancellation or surrender, the expiry dates stated on existing water licences are no longer relevant in determining the expiry of the licence and that instead the expiry is governed by new section 213A (the effect of which is to extend the term of all currently issued water licences until 30 June 2111. The amendment is being made because it is necessary for the commencement of new clause 1235 to be delayed and commence by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines to make the necessary licensing system modifications.

### **Amendment 33**

**Amendment 33 after clause 303** inserts a new clause 303A into the Bill which inserts a new section 1235 into the *Water Act 2000*. New section 1235 provides that, subject to cancellation or surrender, the expiry dates stated on existing water licences are no longer relevant in determining the expiry of the licence and that instead the expiry is governed by

new section 213A (the effect of which is to extend the term of all currently issued water licences until 30 June 2111). It is necessary for the commencement of this and other clauses that relate to that amendment to water licence expiry timeframes be delayed and commence by proclamation rather than Royal Assent to allow time for the Department of Natural Resources and Mines to make the necessary licensing system modifications. This amendment reinserts this provision in the part of the Bill that commences by proclamation, they were omitted from the part commencing by Royal Assent by Amendment 21.

### **Amendment 34**

**Amendment 34 amends clause 306 (Amendment of sch 4 (Dictionary))** to omit the definition of ‘declared catchment area’ from the dictionary to the *Water Act 2000*. This amendment reinserts this omission in the part of the Bill that commences by proclamation, because it is necessary for the commencement of this clause to occur by proclamation rather than Royal Assent to align the release of the Single State Planning Policy to ensure there is no gap in the regulation of development in these catchment areas. This amendment reinserts this omission in the part of the Bill that commences by proclamation, they were omitted from the part commencing by Royal Assent by Amendment 22.

### **Amendment 35**

**Amendment 35 amends clause 306 (Amendment of sch 4 (Dictionary))** to remove any ambiguity surrounding the definition of ‘levee-related infrastructure. Clause 306 of the Bill amends Schedule 4 definitions within the *Water Act 2000*. The definition of ‘levee-related infrastructure’ is missing the word ‘flow’ after ‘overland’ creating ambiguity about the application and scope of the definition.

### **Amendments 36 – 43**

**Amendments 36 - 43** amend the Schedule of the Bill, which includes necessary minor and consequential amendments. Amendments 36 to 43 make minor amendments to address small errors such as cross referencing across a number of Acts.

### **Amendment 44**

**Amendment 44 amends Schedule 1 (Minor and consequential amendments)** to extend the long title of the Bill to include reference to the *Sustainable Planning and Other Legislation Amendment Act (No.2) 2012*. Amendment 5 will ensure the effective operation of the provisions under the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012* which enable the chief executive administering the *Sustainable Planning Act 2009* to be the State Assessment and Referral Agency.