



Environmental
Defenders Office

**Submission to the Primary Industries and Resources
Committee on the State Development and Public Works
Organisation (Critical Minerals) and Other Legislation
Amendment Bill 2026**

29 June 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

www.edo.org.au

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Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past, present and emerging, and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations cultural heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises self-determination as First Nations peoples' right to freely determine their own political status and freely pursue their economic, social and cultural development. EDO respects all First Nations' right to be self-determined, which extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A note on language

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations peoples. We acknowledge that not all First Nations peoples identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. The EDO respects all First Laws and values their inherit and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

Role of EDO

EDO is a non-Indigenous community legal centre specialising in public interest environmental law. EDO has been operating in Queensland for over 35 years. This submission is based on our expertise in planning and environmental law and experience in working on behalf of First Nations clients, including in relation to Cultural Heritage.

Out of respect for First Nations self-determination, EDO seeks to support First Nations to protect their Countries and Cultural Heritage as they see fit. In making this submission, EDO cannot and does not speak on behalf of First Nations peoples or groups.

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Executive Summary

1. We are deeply concerned by the introduction of the *State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026 (Bill)*, which proposes major changes to how resource and infrastructure projects could be assessed and approved in Queensland. Despite the name of the Bill, the proposed changes could apply to any type of significant-scale development, not just critical minerals.
2. The Bill proposes undoubtedly extraordinary powers, which substantially deviate from fundamental legislative principles (**FLPs**), undermine the separation of powers and pose grave risks to upholding human rights. The Bill's purported 'safeguards' to mitigate or appropriately limit these powers are grossly inadequate.
3. The Government has abjectly failed to justify any need for the extent of powers the Bill proposes. It has not provided **any** evidentiary basis commensurate with such a drastic deviation from FLPs. Rather, its explanatory information simply makes broad, high-level claims or assertions about the Bill's purported 'need'. It has also not provided any meaningful evidence as to why the proposed reforms need to be made so rapidly.
4. Despite the apparent overarching importance and purported 'benefits' to the State, the Government only consulted on the draft Bill with its departments, government owned corporations and industry peak bodies. It did not conduct any public consultation, nor seemingly any targeted consultation with any public or community interest-focussed bodies.
5. While similar laws have recently been passed in some other Australian jurisdictions, any changes to Queensland laws must be tempered in appropriate recognition that this State has much more at risk (environmentally, socially and economically) from such provisions than those other jurisdictions.

Summary of Recommendations

Primary Recommendation:

1. The Bill should be withdrawn and not reintroduced unless there is a demonstrated need, and appropriate consultation has occurred. However, if the Government continues to pursue amendments to the *State Development and Public Works Organisation Act 1971 (Qld) (SDPWO Act)*, it should undertake adequate consultation on any draft amended Bill, which addresses the following recommendations.

Subsequent Recommendations:

2. Amend the power to declare State strategic projects under the Bill to:
 - (a) remove criterion (b) from the declaration criteria in proposed s 76EB(1);
 - (b) require public consultation on all State strategic project draft declarations;
 - (c) require the Minister publish a statement of reasons for all State strategic project declarations, both draft and final;
 - (d) require the development and publication of a policy statement outlining the Government's economic, environmental and social objectives for the State and any specific regions.

3. Develop and publish guidance or policy documents outlining the types of projects that could be declared State strategic projects.
4. Implement safeguards to appropriately limit modification orders, such as:
 - (a) identifying what Act can be subject to the power to make modification orders,
 - (b) prohibiting the making of a modification orders that would, in any way, affect identified excluded areas, such as protected areas¹ or the Great Artesian Basin;
 - (c) a sunset clause limiting the application of the power to recommend the making of modification orders;²
 - (d) prohibiting modification orders that would affect or remove the general environmental duty;³
 - (e) requiring consultation on both draft recommendations,
 - (f) prohibiting modification orders that would undermine, or are in conflict with, the intent, objects or purpose of the modified Act;
 - (g) requiring publication of statements of reasons for both draft and final recommendations, and
 - (h) expressly provide that the Minister's recommendation to the Governor in Council to make a modification order is a reviewable decision under the *Judicial Review Act 1991* (Qld) (JR Act).
5. Amend the power to issue State significance notices to:
 - (a) remove the Minister's power to dictate decision-making criteria for decisions made by other Ministers;
 - (b) include statutory review rights for decisions to issue State significance notices;
 - (c) prioritise the objects of Act under which the decision is made over the objects of the SDPWO Act; and
 - (d) identify decisions for which a State significance notice could be issued in the Act.
6. Amend the power to take land for State strategic projects to:
 - (a) retain the requirement to obtain an environmental impact statement (**EIS**) for the project that includes the relevant land prior to the land being eligible to be taken under s 125; and
 - (b) require public consultation on the potential impacts of the project prior to the project being identified as one land can be taken for under s 125.
7. Amend the power to grant access authorities for enabling works to:
 - (a) require adequate environmental assessment;
 - (b) require the proponent to clearly identify the activities to be taken;
 - (c) ensure reasonable steps have been taken to negotiate with the landholder prior to the application being made; and
 - (d) ensure the proponent has the financial and technical capacity to rectify the damage and provide full, just terms, compensation prior to the authority being granted.

¹ As defined in *Nature Conservation Act 1994* (Qld) s 14. Including permitting uses that would otherwise be excluded, modifying boundaries or abolishing the protected area.

² Queensland Legislation Handbook, 7.3.3.

³ This is similar to a safeguard imposed on similar powers under SDCF Act s 42(b).

8. Amend the proposed SDA-related development provisions to:
 - (a) require public consultation before declaring an SDA-related development;
 - (b) identify developments that could constitute SDA-related developments in the Act; and
 - (c) restrict SDA-related developments to development that is strictly necessary to achieve the purpose of the SDA.
9. Infrastructure Coordination Plans should:
 - (a) require public consultation on proposed Infrastructure Coordination Plans;
 - (b) increase notice entry requirements for investigations in relation to ICPs from 7 days to at least 28 days; and
 - (c) impose express limitations on what the Coordinator-General may do to land when conducting an investigation.
10. Assessments and decision-making powers under the *Regional Planning Interests Act 2014* (Qld) and *Transport Infrastructure Act 1994* (Qld) should not be altered.
11. The Bill should reflect the rights and principles in UNDRIP, including the principle of Free, Prior and Informed Consent in relation to in decision-making that affects First Nations land, waters and resources.
12. The Bill should be amended to explicitly confirm that it does not limit or remove protections and obligations provided in relevant laws regarding First Nations rights and interests, including but not limited to, the Qld Cultural Heritage Acts, the *Nature Conservation Act 1992* (Qld) and the *Human Rights Act 2019* (Qld). This includes, for example:
 - (a) amending proposed section 76RL(c) to make clear that modification orders do not override the Qld Cultural Heritage Acts; and
 - (b) amending Part 6A of Subdivision 5 to provide that access authorities cannot be granted without the free, prior and informed consent of relevant affected First Nations people.

Introduction

6. On 2 June 2026, Deputy Premier the Hon. Jarrod Bleijie, Minister for State Development, Infrastructure and Planning (**Minister**), introduced the Bill into the Queensland Parliament. The Bill proposes extensive changes to the SDPWO Act and some changes to other Queensland legislation.
7. Environmental Defenders Office (**EDO**) welcomes the opportunity to comment on the Bill. Due to the limited consultation timeframe, this submission focusses on the proposed amendments we consider to be of most concern. We would welcome an opportunity to present at the public hearing to answer queries and/or provide further information.
8. Our submission is in two parts. Part 1 outlines our overarching concerns with the proposed amendments to the SDPWO Act and addresses the following issues posed by the Bill:
 - an inappropriate delegation of legislative power;
 - the abject failure to justify the need for the Bill;

- the failure to adequately consult on the Bill;
- an unreasonable concentration of power with the Minister and Coordinator-General without adequate safeguards;
- the undermining of public participation rights;
- the erosion of landholder rights;
- the unreasonable limitation of human rights, including the protection against arbitrary deprivation of property, and adverse impacts on First Nations; and
- the nullification of recent amendments to protect areas of regional importance introduced under the *Regional Planning Interests (Condamine Alluvium) Amendment Act 2026* (Qld).

9. Part 2 of our submission contains detailed feedback on the Bill and our recommended amendments in the event the Government continue to pursue amendments to the SDPWO Act, and addresses:

- State strategic projects, including:
 - declaring a State strategic project;
 - modification orders’
 - State significance notices;
 - powers to take private land for State strategic projects;
 - powers to carry out substantial enabling works on private land;
- SDA-related development;
- Infrastructure Coordination Plans;
- integration with the *Regional Planning Interests Act 2014* (Qld) (**RPI Act**);
- impacts to human rights; and
- adverse impacts on the rights and interests of First Nations.

Part 1 – Overarching concerns with the Bill

The Bill proposes an inappropriate delegation of legislative power

10. The Explanatory Notes states that the Bill departs from fundamental legislative principles (**FLPs**), as outlined under the *Legislative Standards Act 1992* (Qld) (**LS Act**) on 12 occasions.⁴ FLPs are the principles of legislation that underlie a parliamentary democracy based on the rule of law.⁵ These departures from the FLPs are particularly concerning given the Bill proposes to delegate legislative powers to the Minister, undermining the separation of powers doctrine and the institution of Parliament.

11. The LS Act provides that, whether legislation that ‘has sufficient regard to the institution of Parliament’ depends on if, for example, the Bill ‘allows the delegation of legislative power **only in appropriate cases and to appropriate persons**’.⁶

⁴ Explanatory Notes, 3.

⁵ *Legislative Standards Act 1992* (Qld) s 4(1) (**LS Act**).

⁶ LS Act s 4(4).

12. The Bill proposes the creation of a new power for the Minister to recommend that the Governor in Council make a “modification order”, which would be a regulation that changes how a law(s) in Queensland applies to a State strategic project.⁷
13. This type of clause is known as a “Henry VIII clause” and operates, by delegation, to shift legislative powers from the Legislative branch of government to the Executive branch, eroding the separation of powers doctrine.
14. The use of Henry VIII clauses to subvert the separation of powers in Queensland has long been considered controversial and should only be used in extreme circumstances – such as natural disasters, other emergencies and during war. The Scrutiny of Legislation Committee noted in their 1997 report on the use of Henry VIII clauses in Queensland Legislation that, since their formation in 1975, *‘the Committee has repeatedly reported adversely on clauses, which in its view, were Henry VIII clauses.’*⁸ More recently, the Queensland Legislation Handbook stated *‘Henry VIII clauses should not be used’*.⁹
15. In considering appropriate delegations of power, the Office of the Queensland Parliamentary Counsel noted the Scrutiny Committee’s comments that *‘Henry VIII clauses can also be regarded as unacceptable delegations of power.’*¹⁰ In particular, the Scrutiny Committee commented that Henry VIII clauses that are *‘expressed to allow for a regulation that can override an Act’* are most objectionable.¹¹
16. We are concerned that the Bill proposes to do exactly that: allow for a regulation to be made, at the recommendation of the Minister, to override other Queensland Acts. In our view, the Bill proposes an unreasonable delegation of legislative power that is not consistent with the FLPs and operates to undermine the rights of individuals and the institution of Parliament. The purported ‘safeguards’ are grossly inadequate.

No sufficient basis for the introduction of the Bill

17. The Government has abjectly failed to justify the extent of the powers the Bill proposes. It has not provided **any** evidentiary basis commensurate with such a deviation from FLPs.
18. The Explanatory Notes and the Explanatory Speech make it clear that the basis for the proposed amendments is to *‘remain competitive with other Australian jurisdictions’*.¹² However, neither the Bill, nor any extrinsic materials for the Bill, identify how the existing legislation is unnecessarily delaying, or inappropriately restricting, a project.
19. For example, no government or consultant report or other proper analysis has been provided or referenced that details, with specificity, problematic existing laws or provisions and/or

⁷ Bill cl 22, proposed ss 76RH and 76RI.

⁸ Scrutiny of Legislation Committee, Parliament of Queensland, *The use of “Henry VIII Clauses” in Queensland Legislation* (Report, January 1997) 1.

⁹ Department of Premier and Cabinet, *Legislation Handbook* (2014) 7.3.3 (**Legislation Handbook**).

¹⁰ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook* (January 2008) 147 (**OQPC FLP Notebook**).

¹¹ OQPC FLP Notebook, 160.

¹² Explanatory Notes, 5; Explanatory Speech (2 June 2026) 1553.

outlines any case studies (real or hypothetical). This absence of evidence applies equally to any of the purported ‘issues’ of duplication, inflexibility, inability to deal with new technologies, and/or delays.¹³

20. The FLP deviations arising from the extraordinary carte blanche proposed powers demand such proper and fulsome justification. The Bill is poorly conceived and a blunt attempt at law making with respect to issues that have not been shown to exist and/or may never eventuate.

No evidence of delays or obstructed processes

21. The SDPWO Act already provides the Minister and Coordinator-General with extensive powers to identify projects as “critical infrastructure projects” and provide for development to be fast-tracked under the coordinated projects process. For example, the SDPWO Act currently provides for:

- the Coordinator-General’s conditions to override conditions on other approvals under the coordinated projects process,¹⁴ such as development approvals issued under the *Planning Act 2016* (Qld) (**Planning Act**);
- powers for the Coordinator-General to “step in” and substitute other decision-makers in relation to prescribed projects;¹⁵ and
- powers for the Coordinator-General to grant access to¹⁶ or take¹⁷ land in relation to private infrastructure facilities.

22. The Coordinator-General’s discretion under the SDPWO Act has already been identified as a vulnerability in the assessment process for large mines.¹⁸

23. The Government has not provided any case studies or evidence of circumstances where these existing powers have been inadequate or wanting.

24. The extrinsic materials for the Bill also make several references to “vexatious or unmeritorious litigation” as forming the basis for limiting review rights under the Bill.¹⁹ However, there is no evidence that public interest cases unnecessarily or unreasonably delay or obstruct development.²⁰

25. In its report on Major Project Development Assessment Processes, the Federal Productivity Commission noted that *‘it does not appear that the existing protections against vexatious*

¹³ Explanatory Notes, 11, 21, 46 and 47; Written Briefing, 15.

¹⁴ SDPWO Act s 54E.

¹⁵ SPWDO Act s 76K.

¹⁶ SDPWO Act s 145.

¹⁷ SDPWO Act s 125(1)(f).

¹⁸ Transparency International Australia, ‘Corruption Risks: Mining Approvals in Australia’ (Report, October 2017) 31 (available at: <https://transparency.org.au/wp-content/uploads/2019/10/Australia-Report.pdf>).

¹⁹ Explanatory Notes, 15; Public Briefing Transcript, 8.

²⁰ Queensland Law Reform Commission, ‘Lawfare’ (Factsheet) 4 (available at: [https://www.qlrc.qld.gov.au/_data/assets/pdf_file/0003/822711/5.1-fact-sheet-lawfare.pdf](https://www qlrc.qld.gov.au/_data/assets/pdf_file/0003/822711/5.1-fact-sheet-lawfare.pdf)).

litigation need to be strengthened, noting that courts can already strike out vexatious or frivolous proceedings.²¹

26. We note that at the recent public briefing on the Bill, the Coordinator-General took a question on notice regarding evidence of vexatious or unmeritorious litigation.²² At the date of this submission, no response has been uploaded to the Committee’s website. To date, we are aware of only one objection having been struck out by the Land Court for being frivolous²³ and none have been struck out for being vexatious.²⁴

27. It is disingenuous for the Government to claim appeal and review rights delay or obstruct developments in Queensland, given only the Courts can determine whether an appeal is meritorious and there is a lack of evidence to support this assertion.

28. In the event that a particular project is the subject of any court action, it is a relatively rare occurrence. In our experience, it is only the very largest projects and/or those with the highest environment or social impacts that are subject to such additional, but entirely appropriate, scrutiny.

Jurisdictional competition alone is not an adequate reason to depart from FLPs

29. In our view, remaining “competitive” with other jurisdictions is not a sufficient reason alone for the substantial departure from FLPs, to undermine democratic Parliamentary processes and to erode the separation of powers.

30. It is evident from the Bill, and extrinsic materials, that the Government has effectively “adopted” the proposed amendments from other jurisdictions in preparing this Bill.²⁵ However, in doing so, it appears the Government has failed to consider Queensland’s relevant uniqueness, as well as other economically important industries such as tourism, in determining whether such powers would be appropriate in this State.

31. For example, it does not appear that the Government has given due consideration to the fact that Queensland:

- is the most biologically diverse state or territory in Australia;²⁶
- contains five World Heritage properties, including the only place on Earth where two World Heritage places meet and the largest sand island in the world;²⁷
- contains the world-renowned Great Barrier Reef;

²¹ Productivity Commission, ‘Major Projects Development Assessment Process’ (Report, 2023) 277 (available at: <https://assets.pc.gov.au/inquiries/completed/major-projects/report/major-projects.pdf>).

²² Public Briefing Transcript, 9.

²³ *Hail Creek Coal Holding Pty Ltd v Micheltore* [2020] QLC 16.

²⁴ Based on our review of judgments available on the [Queensland Judgments Database](https://www.qldcourts.gov.au/judgments).

²⁵ Written Briefing, 14; Explanatory Notes, 16-17.

²⁶ See: <https://www.museum.qld.gov.au/learn-and-discover/queenslands-environments-and-biodiversity/>.

²⁷ See: <https://www.business.qld.gov.au/industries/science-it-creative/science/biodiscovery/qld/>.

- is the State most impacted by natural disasters (which will be exacerbated by climate change);²⁸
- has the largest beef sector in Australia, comprising nearly half of the national herd;²⁹
- receives more income from tourism than any of the jurisdictions listed as “competitors” by the Government, having the second highest Gross State Product from tourism in Australia in 2023-24; and³⁰
- has long had the highest rate of land clearing in the country.³¹

32. The unchecked powers proposed by the Bill would undoubtedly risk substantial adverse impacts to the values above, for example, by providing for the taking of agricultural land, or through fast-tracked assessments and approvals of projects that will lead to increased coral bleaching in the Great Barrier Reef.

33. We are extremely concerned that, in the Government’s rush to follow other jurisdictions, it has failed to duly consider, develop and then apply what is actually in the best interests of Queensland.

Consultation on the Bill has been inadequate

34. The amendments proposed by the Bill have extensive implications for the public. However, the Government’s consultation process for the Bill prior to, and in the time since, its introduction into Parliament has been wholly inadequate. It has also favoured, to the prejudice of the general Queensland population, development industry interests that would likely benefit from the proposed changes.

35. Peak industry bodies received prior consultation, including access to parts of the draft Bill and the chance to give Government related feedback. However, the Written Briefing does not list any public interest or community-focussed organisations, environmental organisations, First Nations organisations or professional legal institutions as being part of this prior consultation process,³² despite (among other things):

- significant departures from, and issues arising with, fundamental legislative principles;
- the breadth and extent of potential impacts to long-established public participation rights in any development assessment process(es); and
- the potential limitation of human rights.

36. Public submissions on the Bill closed just over three weeks after the Bill was introduced into Parliament, ten days after the Department’s Written Briefing was published and just three days after the public briefing was held. This is not an adequate period for the public

²⁸ Queensland Government, ‘2023 State Disaster Risk Report’ (Executive Summary, 2023) 6 (available at: https://www.disaster.qld.gov.au/_data/assets/pdf_file/0028/436069/2023-State-Disaster-Risk-Report-Executive-Summary.pdf).

²⁹ See: <https://www.dpi.qld.gov.au/news-media/campaigns/data-farm/livestock>.

³⁰ See: <https://www.tra.gov.au/en/tourism-industry-analysis/tourism-satellite-accounts/state-tsa>.

³¹ Wilderness Australia, ‘Drivers of deforestation and land clearing in Queensland’ (Report, May 2025) 5 (available at: https://wilderness.org.au/images/uploads/WEB_Drivers-of-Deforestation_2025-Report-V2.pdf).

³² Explanatory Notes, 15-16; Written Briefing, 26-27.

to understand the Bill and prepare their submissions, particularly given the length and complexity of the Bill.

37. On the contrary, industry stakeholders were at a distinct advantage to prepare submissions to the Committee, given the prior consultation likely months in advance of the Bill being tabled. We note this Bill was also introduced just months after changes to political donation laws were amended to allow property developers and close associates to make political donations for State elections.³³

38. Further, no justification has been given for the urgency of the Bill, nor for the exclusion of public-interest and other relevant stakeholders from consultation. This truncated timeframe was wholly inadequate for the public to review and comprehend an incredibly complex Bill. The rushed process and lack of broad, accessible consultation is contrary to the Queensland Government's Better Regulation Policy.³⁴

39. The Government's consultation approach on this Bill has placed the public at a significant disadvantage in this critical law reform process, despite the Bill purporting to reflect all Queensland's State interests. This is particularly concerning given the extensive powers proposed by the Bill.

The Bill unreasonably concentrates power without adequate safeguards

40. The Bill proposes to broaden the suite of powers available to the Minister and Coordinator-General in relation to developments that are of significance to Queensland, substantially concentrating power with the Minister and Coordinator-General, while also reducing transparency and accountability.

41. The proposed amendments would provide the Minister and Coordinator-General with significant powers to enable the fast-tracking of resource and infrastructure developments, bypassing or weakening regulatory processes, and eroding public participation and landholder rights.

42. EDO has serious concerns that the proposed power to recommend the making of modification orders will be broadly used to fast-track developments without adequate consideration of public interest issues, such as the environment and future generations.

Broad powers to override other legislation or interfere with decision-making processes

43. The Minister has expressed that the power to modify how legislation applies to a particular project will '*give the government a swift mechanism to resolve unanticipated regulatory barriers that would otherwise delay or stall a project*',³⁵ with examples where such powers could be used including:³⁶

³³ Electoral Laws (Restoring Electoral Fairness) Amendment Act 2026.

³⁴ Queensland Government, 'Better Regulation Policy' (Policy, April 2025) 16 (available at: <https://qpc.qld.gov.au/docs/Queensland-Government-Better-Regulation-Policy.pdf>).

³⁵ Explanatory Speech, 1553.

³⁶ Written Briefing, 15.

- duplicative requirements for impact assessment between different authorisations required for a mining project,
- multiple rounds of similar public notification for differing authorisations, and
- allowing a project to be made approvable if the existing framework does not provide a pathway for its approval – for example, a type of critical minerals refining factory that uses technology that has not previously been used in Queensland.

44. However, as outlined above, the Government has failed to provide any evidence that such powers are necessary. Rather, it is more important that a new (and potentially untested) refining technology, for example, is subject to rigorous assessment to ensure all impacts are known and understood prior to any approval. To fast-track projects and/or change or exclude long-established and proven statutory provisions simply because the technology “has not previously been used in Queensland” is both misplaced and irresponsible.

45. While the Bill provides that modification orders could not be used to remove the need to obtain “key authorisations”, it could modify the criteria for granting those approvals.³⁷ Further, the above examples indicate the power would likely be used to remove consultation and appeal rights that may have otherwise arisen under those authorisation processes.³⁸ Those rights provide an important check and validation role, particularly where a project will result in significant and long-lasting impacts.

46. The Bill would also provide for modification orders that could undermine, and/or be in contradiction with achievement with the objects of the modified Act if the benefits of the project would “outweigh” the detrimental effects, even if those detrimental effects are significant.³⁹

47. We are concerned that these modification powers could be used to undermine the objects of legislation intended to protect the environment, such as the *Nature Conservation Act 1992* (Qld) (**NC Act**) or the *Environmental Protection Act 1994* (Qld) (**EP Act**).

48. The Bill could also enable the Minister to use modification orders in relation to a State strategic project within a national park to modify or exclude the application of the NC Act’s cardinal principle, or change the criteria for when ecotourism projects could be permitted within national parks.

49. Currently, ecotourism facilities can only be approved in national parks if:⁴⁰

- the use will be in the public interest;
- the use is ecologically sustainable; and
- the use will provide, to, the greatest possible extent, for the preservation of the land’s natural condition and the protection the land’s cultural resources and values.

³⁷ Bill cl 22, proposed s 76RJ.

³⁸ Written Briefing, 15.

³⁹ Bill cl 22, proposed s 76RI(1)(d).

⁴⁰ *Nature Conservation Act 1992* (Qld) s 35(1)(c).

50. However, the Bill would enable the Minister to recommend the making of modification orders that could effectively override or exclude these requirements from applying to State strategic projects.
51. The proposed power to issue State significance notices further concentrates power with the Minister and Coordinator-General by empowering them to impose decision-making criteria for other Ministers and decision-makers.
52. The Written Briefing states that the decision-making responsibility remains with the original decision-maker and that it just provides a mechanism by which the interests of the SDPWO Act could be considered in the decision-making process.⁴¹ However, should the Minister give a State significance notice, the decision-maker would be required to make the decision as provided for under the notice. For example, the Minister could impose additional decision-making criteria that the decision-maker must consider when making their decision.⁴²
53. We are concerned about the level of power to interfere with other proven decision-making processes that the Bill would grant to the Minister, particularly the ability to impose conditions on the decision-making processes of other Ministers. This is an extraordinary grant of power that undermines the institution of Parliament and capacity of other Ministers to make decisions in accordance with the processes outlined under the Acts they administer, and with the assistance and advice of the specialist expertise of their advisers and departmental staff.

The Bill does not propose adequate safeguards for new extraordinary powers

54. The Explanatory Notes provide that modification orders would be subject to checks and balances in an effort to curtail the inconsistency with the fundamental legislative principles ‘*to the extent possible*’, including limited availability, Ministerial responsibility, consultation requirements, exclusions and limitations and Parliamentary oversight via the disallowance process.⁴³
55. However, in our view, these proposed safeguards are wholly insufficient to mitigate the inconsistency with the fundamental legislative principles, including both impacts on the rights of individuals and the intention of Parliament.
56. The Explanatory Notes state that the consultation requirements are ‘*to be fulsomely advised of and take into account the possible impacts of the order*’. However, the Bill does not include any requirement to undertake public consultation prior to recommending that the Governor in Council make a modification order.⁴⁴ The Bill also does not contain any express limitations on the application of modification orders, beyond those outlined in proposed s 76RL.
57. While subordinate legislation is subject to a level of Parliamentary scrutiny via the disallowance process, it is not subject to Parliamentary debate unless a motion to disallow

⁴¹ Written Briefing, 14.

⁴² Bill cl 22, proposed s 76RB.

⁴³ Explanatory Notes, 5-6.

⁴⁴ Bill cl 22, proposed s 76RI(2) outlines the consultation requirements.

the subordinate legislation is moved. Further, Queensland Parliament is unicameral and the Legislative Assembly is majority-controlled by the Government, so Parliamentary oversight in this instance is, in effect, self-scrutiny.⁴⁵

58. The disallowance process does not, and cannot be considered to, replace the need for institutional structures, such as legislated consultation and review rights, in providing for transparency and a counterbalance to the inappropriate exercise of power. While voting mechanisms are fundamental to our democratic processes, they offer a retrospective, collective and non-issue specific response to government performance.⁴⁶ Therefore, it is essential that statutory processes designed to ensure powers are used appropriately and in accordance with the law, are retained.

59. In our view, the proposed level of Parliamentary scrutiny is inadequate to remedy the inconsistency with the fundamental legislative principles, particularly given the modification orders can remove critical public participation rights. We do not consider the disallowance process to be a safeguard, let alone sufficient, to adequately mitigate the use of these extraordinary powers.

The Bill undermines public participation rights

60. Public participation in planning decisions should not be seen as an obstacle to development. Instead, community participation should be recognised as an important mechanism through which the needs, views and expertise of the public (particularly local communities impacted) can be incorporated into better development-related decision-making.

61. Principle 10 of the Rio Declaration, which arose from the 1992 United Nations Conference on Environment and Development, outlines three fundamental community rights in relation to environmental decision-making, comprising the rights to:⁴⁷

- a. have appropriate access to information held by public authorities;
- b. genuinely participate in decision-making processes; and
- c. have access to review or challenge decisions.

62. We are concerned that, in addition to the ability to make modification orders removing or amending consultation and appeal rights under other Acts, the Bill operates to reduce or remove consultation and appeal rights more generally.

63. Community engagement, including public consultation and appeal rights, should be a high priority for the Government in all aspects of its operation. This is particularly so with respect to

⁴⁵ Cf, e.g., South Australia and Western Australia, which are bicameral, providing an additional layer of Parliamentary scrutiny in relation to disallowable notices: *State Development Coordination and Facilitation Act 2025* (SA) s 44 (**SDCF Act**) and *Interpretation Act 1984* (WA) s 42.

⁴⁶ Centre for Public Integrity, *Western Australia's State Development Bill: Fast-Tracking Power, Slowing Accountability* (Submission, 13 November 2025) 7 (available here: <https://publicintegrity.org.au/wp-content/uploads/2025/11/Western-Australias-State-Development-Bill-Fast-Tracking-Power-Slowing-Accountability-2.pdf>).

⁴⁷ Available here: [https://docs.un.org/en/A/CONF.151/26/Rev.1\(vol.I\)](https://docs.un.org/en/A/CONF.151/26/Rev.1(vol.I)). See also Wilderness Society, *Who holds the power? Community rights in environment decision-making* (2022) 2 (available here: <https://wilderness.org.au/images/resources/WhoHoldsThePowerReport.pdf>).

decision-making processes relating to projects raising matters of public interest, such as the environment. Consultation and appeal rights should be retained as a matter of course.

64. We are further concerned that the Bill proposes to bestow extraordinary powers on the Minister and Coordinator-General but largely excludes those powers from being subject to statutory judicial review.
65. The ability to seek judicial review of an administrative decision is fundamental to ensuring decision-makers are accountable and act in accordance with the law. While we note the Bill cannot, and does not propose to, limit the inherent jurisdiction of the Supreme Court of Queensland, it does exclude statutory review under the JR Act on several instances.
66. We are particularly concerned that the Bill proposed that Parts 3 and 5 of the JR Act would not apply to decisions to declare a project to be a State strategic project and to issue a State significance notice.⁴⁸ The Coordinator-General stated this approach is ‘*consistent with convention that decisions with higher political content are not subject to appeal.*’⁴⁹
67. However, judicial review is notably distinct from merits appeal as it is constrained to ensuring the decision-maker complied with their legal obligations and acted within their power in making the decision. Consequently, in our view, it is of greater importance that the public have the right to seek review decisions with “higher political content” to ensure they are lawfully made.
68. While the Bill could not limit the application of common law judicial review, the exclusion of statutory review rights, including the statutory right to request a statement of reasons, is concerning and would remove a well-established probity mechanism that would be necessary to ensure this power is exercised in accordance with the law.
69. Given the extensive implications of modification orders and declaration of land under proposed s 143 of the Bill, it would be essential for the Minister to adhere to the legal process for making such recommendations to the Governor in Council and that mechanisms exist for the public to ensure lawfulness.
70. There is no justification put forward as to why these powers should not be subject to judicial scrutiny for grounds provided under the JR Act such as breach of natural justice, jurisdictional error, improper exercises of powers or that conduct involving fraud has taken place.⁵⁰

The Bill erodes landholder rights

⁴⁸ E.g. Bill cl 23, proposed amendments to s 76W.

⁴⁹ Public Briefing Transcript, 9.

⁵⁰ JR Act s 21(1).

71. The Deputy Premier recently stated ‘*Regional Queenslanders deserve a government that stands up for their property rights*’⁵¹ and yet has introduced legislation that would limit these property rights.

72. The Bill proposes to:

- significantly broaden the circumstances for when the Coordinator-General can take land under s 125(1) of the SDPWO Act,⁵² and
- provide proponents with increased powers to access and use private land to carry out substantial enabling works without landholder consent.⁵³

73. These amendments would mean private land can be more readily taken by the Coordinator-General and given to private proponents, with few protections or avenues for recourse available to the landholder. The Bill does not require the Coordinator-General consider other values the land may have, such as agricultural, environmental or intrinsic value, prior to taking the land or granting an access authority to the proponent.

74. This attitude towards landholder rights appears to be contradictory to the LNP’s values more generally, in particular ‘*the **right to private property** and the right to be rewarded for effort, recognising that in any exchange freely undertaken, both parties will benefit.*’⁵⁴

The Bill is contrary to human rights and would adversely impact First Nations

The Bill unreasonably limits human rights

75. The Bill would limit, without reasonable justification, fundamental human rights that are recognised and protected in the *Human Rights Act 2019* (Qld) (**HR Act**) and under international law. This includes the longstanding and fundamental common law protection against arbitrary deprivation of private property rights.

76. If passed, the Bill would significantly affect the human rights of individuals and the community because:

- a) by providing for incredibly broad access authorities and related “enabling works” with very little notice to landholders, the Bill would arbitrarily deprive landholders of their right to property and non-interference with the right to privacy, family and home;⁵⁵
- b) it would prioritise some private interests (that is, of project proponents) over others by expanding the ability for the Coordinator-General to compulsorily acquire land and

⁵¹ Queensland Government, Ministerial Statement (25 June 2026) (available at: <https://statements.qld.gov.au/statements/105406>).

⁵² Bill cl 37.

⁵³ Bill cl 46.

⁵⁴ Available here: <https://www.lnp.org.au/our-values>.

⁵⁵ HR Act ss 24 and 25. It also places the onus on the landholder to spend the time, money and effort to seek compensation for any damage caused, with a limited amount of time to do so.

transfer it to project proponents. This breaches the individual right to property⁵⁶ and the general position that land can only be compulsorily acquired for public purposes;

- c) it would limit the rights of third parties to make submissions, have a say on projects, and challenge government decisions regarding projects covered by the Act (especially merits review) which unnecessarily limits the right to freedom of expression, the right to take part in public life and the right to a fair hearing and access to justice;⁵⁷
- d) related to the last point, Queenslanders may lose rights to seek access to justice and access to a court or tribunal through reduce opportunities for appeals and judicial review, and therefore the ability to enforce human rights in the courts by “piggy-backing” human rights grounds onto other causes of action;⁵⁸
- e) the expedited and expanded development assessment process for State strategic projects, which could include any energy or resources projects and other developments, will facilitate projects which could contribute to climate change and therefore limits the right to life, health and a healthy environment. The Bill undermines, and is inconsistent with, Australia’s binding obligations to prevent significant climate harm under international law, as confirmed by the International Court of Justice’s Advisory Opinion.⁵⁹ The Government has further acknowledged that the Bill impacts on the right to privacy, children and families, and cultural rights due to its likely contribution to climate change.⁶⁰

77. Despite the comments in the Statement of Compatibility that corporations will largely be impacted by the Bill, the Bill would significantly affect the rights of individuals and the community.⁶¹ The extent to which the Bill is likely to deprive individuals of their rights is, in our view, disproportionate and unreasonable, and therefore likely to constitute an arbitrary deprivation of the human rights of Queenslanders.

78. As noted above, the provisions in the Bill may erode the right to not be arbitrarily deprived of private property.

79. Importantly, the Statement of Compatibility and therefore the Deputy Premier’s analysis of the impact of the Bill on human rights, makes assumptions about how the broad discretionary powers provided for in the Bill will be used. However, many of these assumptions are not in fact reflected in the Bill itself. The Deputy Premier’s Statement of Compatibility also:

⁵⁶ The fundamental right to property has long been recognised by the common law as well as international law: The Universal Declaration of Human Rights (UDHR) explicitly declares that everyone has the right to own property and that “no one shall be arbitrarily deprived of his property” (Article 17).

⁵⁷ HR Act ss 21, 22 and 31.

⁵⁸ For example, clause 23 of the Bill (proposed section 76W) which proposes to exclude from review under the *Judicial Review Act 1991*, the Minister’s decisions to give a State significance notice or a notice under section 76RD(4). This would mean that, if those decisions are made inconsistent with or without proper consideration of human rights, the remaining avenue available for persons aggrieved is limited to a human rights complaint, without legal force.

⁵⁹ International Court of Justice, [Advisory Opinion of 23 July 2025](#). The ICJ Advisory Opinion confirmed that Australia has binding obligations to prevent significant harm to the environment (including the climate system) and take measures to protect the climate system and other parts of the environment, to protect human rights.

⁶⁰ Statement of Compatibility 12-13.

⁶¹ Statement of Compatibility 2.

- makes broad statements about how some of the impacts on human rights will be managed (such as mechanisms for local governments and safeguards to ensure protection of cultural rights),⁶² but does not provide for this management or set up a framework that will require it, and
- acknowledges the expedited and expanded development approval process for critical minerals and other developments in the Bill will contribute to climate change and limit rights to life, privacy, children and families, and cultural rights in the *Human Rights Act 2019* (Qld).⁶³ Again, the Bill fails to address these very real impacts.

80. The Deputy Premier concludes that the provisions of the Bill will not themselves limit human rights, but that the exercise of the provisions will engage and potentially limit rights. This distinction is arbitrary and disingenuous. It ignores the real impacts that the expanded powers will have on human rights. It is also incongruous with the Bill's removal or limitation of the rights of individuals to challenge the exercise of these powers. Human rights should be protected by legislative safeguards and not by uncertain, future government action and a hope that discretionary powers will be exercised appropriately.

81. EDO strongly disagrees that the limitations on human rights in the Bill are reasonable and demonstrably justified.

The Bill would adversely impact First Nations

82. The Bill undermines the rights of First Nations people outlined in the *United Nations Declaration on the Rights of Indigenous Peoples* (**UNDRIP**) including fundamental legal rights of Traditional Owners, including that of Free, Prior and Informed Consent (**FPIC**). The Bill has been developed without consultation with relevant First Nations people, contrary to their right to participate in decision-making in matters that affect their rights⁶⁴ and to be consulted on laws that affect them⁶⁵.

83. If enacted, the Bill will water down First Nations rights to protect Country and Cultural Heritage,⁶⁶ especially through reduced opportunities to input into government decisions and rights of review. Fast-tracked approval processes may also reduce consultation times and put undue pressure on First Nations groups negotiating with proponents, under the native title regime or otherwise.

84. EDO considers that the Statement of Compatibility significantly understates the potential limitation of cultural rights resulting from the Bill.⁶⁷ The expansion of extractive industries in Queensland, and the fast-tracking processes provided for in the Bill (including regarding access authorities), will inevitably engage and limit First Nations cultural and other rights.

⁶² Statement of Compatibility 18.

⁶³ Statement of Compatibility 12-13.

⁶⁴ UNDRIP Art 18.

⁶⁵ UNDRIP Art 19.

⁶⁶ See UNDRIP Arts 3, 4, 25, 26, 29 and 31.

⁶⁷ See page 11 of the Statement of Compatibility.

85. A revised version of the Bill should be developed in consultation with First Nations stakeholders including Native Title Representative Bodies/Service Providers and released for public consultation with sufficient time for First Nations people, communities and representative organisations to meaningfully engage. In the limited time provided, EDO has suggested some amendments to address the above concerns (see recommendation 12). These, and other potential legislative safeguards to reflect and protect First Nations rights and interests should be subject to consultation with relevant First Nations stakeholders.

The Bill nullifies recent amendments to the RPI (Condamine Alluvium) Bill intended to protect regionally important land

86. In addition to there being no identified need for the amendments, the Bill would effectively nullify recent amendments made to the *Regional Planning Interests (Condamine Alluvium) and Other Legislation Amendment Bill 2026 (RPI CA Bill)* which, after the inquiry process, was subsequently amended to reinstate the Regional Interest Development Approval (**RIDA**) process under the RPI Act.⁶⁸

87. Originally the RPI CA Bill proposed to amend the RPI Act to ‘remove duplicative approval processes’.⁶⁹ However, following significant public outcry about the impacts from the removal of the RIDA process, the Committee recommended the retention of the RIDA process within the Condamine Alluvium CSG area.⁷⁰

88. However, the amendments proposed by the Bill, in particular the power to recommend the making of modification orders to remove or alter “duplicative processes” would undo these protections, as the Minister could simply recommend the making of a modification order that alters the application of the RPI Act to the State strategic project.

89. We are concerned that the feedback provided by the community during the consultation process for the RPI CA Bill will be completely disregarded in the context of the Bill.

Recommendation 1: The Bill should be withdrawn and should not be reintroduced until there is a demonstrated need for such expansive powers and appropriate consultation has occurred.

Part 2 – Detailed feedback on the Bill and proposed amendments

State Strategic Projects

Declaration Criteria

90. The Bill proposes to create a new category of development called “State strategic projects” which the Minister could declare if they consider a project is:⁷¹

⁶⁸ Primary Industries and Resources Committee, *Inquiry into the Regional Planning Interests (Condamine Alluvium) and Other Legislation Amendment Bill 2026* (Report, 8 May 2026) (**PIR Committee Report**).

⁶⁹ PIR Committee Report, 1.

⁷⁰ PIR Committee Report, recommendation 2.

⁷¹ Bill cl 17, proposed ss 76EB(1).

- (a) critical or essential to Queensland for economic, environmental or social reasons; or
- (b) a high priority for the State because the project will, or is likely to, significantly contribute to the achievement of the Queensland Government’s economic, environmental or social objectives for Queensland or a specific region.

91. While currently the Minister can declare prescribed project to be a “critical infrastructure project”,⁷² the inclusion of category (b) above significantly broadens the discretion of the Minister to declare any project that “is likely to” significantly contribute to a region of Queensland as a State strategic project.

92. The terminology used in the criteria for declaring State strategic projects is not defined in the Bill, and there is no further guidance as to what kinds of projects would be considered “critical” or “essential” or what the Queensland Government’s “objectives” might be for the State or a region. This means the Minister’s power to declare State strategic projects would effectively be unlimited.

93. The effect of this declaration is that the Minister and Coordinator-General subsequently have immense powers, including to (among other things):

- make extraordinary and largely unprecedented “modification orders” amending how other Queensland legislation applies to the project;
- issue “State significance notices” to override other decision-makers, impose decision criteria and remove third party appeal rights;
- compulsorily acquire private land for State strategic projects; and
- grant proponents of State strategic projects access to private land to carry out substantial works without landholder consent.

94. The Bill does not require public consultation prior to declaring State significant projects, nor does it require the Minister to publish any reasons or rationale for a declaration. The Minister’s decision to declare a State strategic project would not be reviewable under the JR Act; however, common law actions for judicial review may still be available.⁷³

Recommendation 2: Amend State strategic projects under the Bill to:

- (a) remove criterion (b) from the declaration criteria in proposed s 76EB(1),
- (b) require public consultation on all State strategic project draft declarations,
- (c) require the Minister publish a statement of reasons for all State strategic project declarations, both draft and final;
- (d) require the development and publication of a policy statement outlining the Government’s economic, environmental and social objectives for the State and any specific regions.

⁷² *State Development and Public Works Organisation Act 1971* (Qld) s 76E(4) (**SDPWO Act**).

⁷³ Bill cl 23, amendments to s 76W.

Recommendation 3: Develop guidance or policy documents outlining what types of projects could be declared State strategic projects.

Modification orders

95. As outlined above, the Bill proposes to create new powers for the Minister to recommend that the Governor in Council make a “modification order”, which is subordinate legislation that would change how other Queensland laws apply to the State strategic project. Modification orders could also impose conditions on State strategic projects to prevent or mitigate environmental harm that may arise from modified provisions not applying.⁷⁴
96. The Coordinator-General has stated that modification orders are ‘*legislative in nature*’.⁷⁵ However, the Coordinator-General further noted that judicial review will be available in relation to the decision to recommend the making of a modification order, for example, in circumstances of jurisdictional error or invalidity.⁷⁶
97. The Bill also does not contain any express limitations on the application of modification orders, beyond those outlined in proposed s 76RL. Exclusions for the application of proposed division 3A should be included in the Bill to ensure the Minister’s intention regarding the use of modification orders is unambiguous.
98. For example, the Minister has declared the modification orders would not be used to permit mining in national parks, or carry out greenhouse gas storage activities in the Great Artesian Basin.⁷⁷ However, the Bill, as drafted, does not prevent the use of modification orders in this way. The Bill provides that modification orders could be used to modify any Act that ‘*would apply to undertaking a State strategic project, or provide for a State strategic project to be undertaken*’⁷⁸.
99. This could, for example, be used to modify the application of s 27 of the *Nature Conservation Act 1994* (Qld) to remove the prohibition on mining in national parks in relation to a State strategic project. It could also be exercised to enable carbon capture and storage projects in the Great Artesian Basin, which are otherwise banned.⁷⁹
100. This means that, despite the Minister’s verbal assertions that the modification powers would not be used for these purposes, the Bill could permit for the powers to be used in this way. In our view, these claims should be embedded in the legislation by expanding proposed s 76RL regarding when modification orders cannot be made.
101. Conversely, South Australia, in creating similar powers, imposed some restrictions on the use of these modification orders. For example, the *State Development Coordination and*

⁷⁴ Bill cl 22, proposed s 76RH(2)(b).

⁷⁵ Public Briefing Transcript, 8.

⁷⁶ Public Briefing Transcript, 8.

⁷⁷ Explanatory Speech, 1553.

⁷⁸ Bill cl 22, proposed s 76RH(1).

⁷⁹ Greenhouse Gas Storage Act 2009 (Qld) s 44.

Facilitation Act 2025 (SA) places restrictions on the use of similar powers (known under that Act as ‘Disallowable notices’ or ‘facilitation notices’) to exclude their application to modify the boundaries or abolish entirely protected area. The South Australian Act also contains a prohibition on interfering with the operation of the general environmental duty.⁸⁰

Recommendation 4: Implement safeguards to appropriately restrain the use of the modification orders, including (but not limited to):

- (a) identifying what Act can be subject to the power to make modification orders,
- (b) prohibiting the making of a modification orders that would, in any way, affect identified excluded areas, such as protected areas⁸¹ or the Great Artesian Basin;
- (c) a sunset clause limiting the application of the power to recommend the making of modification orders;⁸²
- (d) prohibiting modification orders that would affect or remove the general environmental duty;⁸³
- (e) requiring consultation on draft recommendations,
- (f) prohibiting modification orders that would undermine, or are in conflict with, the intent, objects or purpose of the modified Act;
- (g) requiring publication of statements of reasons for both draft and final recommendations, and
- (h) expressly provide that the Minister’s recommendation to the Governor in Council to make a modification order is a reviewable decision under the *Judicial Review Act 1991* (Qld) (JR Act).

State significance notices

102. The Bill proposes to create an extraordinary new power for the Minister to issue “State significance notices” in relation to State strategic projects⁸⁴ which would allow the Minister to dictate decision-making under other Acts. This new power can extend to the decisions of other Ministers, a power which does not currently exist in Queensland planning law.⁸⁵

103. For example, the Minister could issue a State significance notice in relation to the Minister for Resource’s decision to grant mining leases and other resource tenures altering the standard decision-making criteria for that decision.

104. The Bill does not provide criteria for the kinds of decisions which could be the subject of State significance notices. Nor is any guidance given as to what contexts would justify the Minister exercising these powers.

⁸⁰ *State Development Coordination and Facilitation Act 2025* (SA) s 42.

⁸¹ As defined in *Nature Conservation Act 1994* (Qld) s 14. Including permitting uses that would otherwise be excluded, modifying boundaries or abolishing the protected area.

⁸² Queensland Legislation Handbook, 7.3.3.

⁸³ This is similar to a safeguard imposed on similar powers under SDCF Act s 42(b).

⁸⁴ Bill cl 22, proposed s 76RB(2).

⁸⁵ Bill cl 15, proposed amendments to the definition of “prescribed decision” under s 76D.

Recommendation 5: Amend the power to issue State significance notices to:

- (a) remove the Minister’s power to dictate decision-making criteria for decisions made by other Ministers;
- (b) include statutory review rights for the decision to issue a State significance notice,
- (c) prioritise the purpose(s) of the Act under which the decision is to be made over the purpose(s) of the SDPWO Act; and
- (d) identify decisions for which a State significance notice could be issued in the Act, e.g. in a schedule.

Powers to take private land

105. While the Coordinator-General currently has the power to take land for “private infrastructure facilities” (**PIFs**) under the SDPWO Act, the Bill proposes to:

- (e) remove the requirement to have a completed EIS for the project prior to the taking of the land,⁸⁶ and
- (f) broaden the types of projects for which land can be taken for PIFs to any type of project the Minister has declared to be a State strategic project.⁸⁷

106. The Written Briefing notes that the power to take land for PIFs under the SDPWO Act ‘*has not been used*’ since it was established in 2012, ostensibly due to the requirement to have a completed Environmental Impact Statement (**EIS**) (or other comparable environmental assessment) and limited class of facilities meeting the definition of PIF.⁸⁸

107. These amendments would enable the Coordinator-General to use their powers to compulsorily acquire land from members of the public much more frequently, for the benefit of private proponents. The removal of the EIS requirement could lead to land being taken under this Part for a project that ultimately never proceeds.⁸⁹

108. The Coordinator-General has stated these powers ‘*would only be available as a last resort*’ with negotiated access being preferred.⁹⁰ However, the Bill only requires the proponent to negotiate with the landholder for at least six months and take “reasonable steps” to purchase the land. Ultimately, the landholder has no right of refusal, compulsory acquisition is only discontinued at the discretion of the Coordinator-General.

Recommendation 6: Amend the power to take land under s 125(1)(f) to:

- (a) retain the requirement to obtain an EIS for the project that includes the relevant land prior to the land being eligible to be taken under s 125,

⁸⁶ Bill cl 39, proposed s 144 c.f. SDPWO Act s 153AA(1).

⁸⁷ Bill cl 37.

⁸⁸ Written Briefing, 21.

⁸⁹ See e.g. the acquisition of properties for the Traveston Dam that ultimately did not obtain Federal approval.

⁹⁰ Public Briefing Transcript, 3.

- (b) require public consultation on the potential impacts of the project prior to the Coordinator-General endorsing the project as one for which land can be taken under s 125.

Powers to carry out substantial “enabling” works without consent

109. The Bill proposes to insert an entirely new part, Part 6A, into the SDPWO Act, providing for proponents to apply for access authorities.⁹¹
110. Significantly, under the Bill, proponents of State strategic projects would be able to apply for an access authority to carry out “enabling works” which are significantly broader than what is currently permitted under the Act,⁹² and could include:⁹³
111. The Bill, as drafted, could have extensive implications for landholders, as a proponent of any State strategic project could be granted access to carry out substantive works without the consent of the property owner.
112. The activities provided for by the Bill would be significantly broader, and more impactful, than those currently permitted under the SDPWO Act.
113. The Explanatory Notes for the Bill state that the Coordinator-General’s power to grant a person access to private land to carry out activities would be a “last resort function” where negotiations have failed.⁹⁴ However, the Bill does not prescribe what would constitute “reasonable steps” by either the proponent or Coordinator-General in relation to their consultation with the relevant land owner; it also does not propose any protections for the landholder during the application process.

Recommendation 7: The Bill should be amended to provide that the Governor in Council cannot approve activities under proposed ss 153P(2)(b) and 153Q unless:

- (a) adequate environmental assessment has been undertaken,
- (b) the relevant activities are clearly defined by the proponent on their application, including the specific location on the land, with a clear explanation as to why each identified activity is essential for the State strategic project to be delivered,
- (c) the proponent has demonstrated they have taken reasonable steps to consult with the landowner about the activities and what impacts they may have on their use and enjoyment of the land, including the landowner’s ability to access parts of their land for the duration of the access authority, and
- (d) the proponent has demonstrated they have the financial and technical capability to rectify the damage, or otherwise compensate the registered owner of the land on just terms, including payment of disturbance costs for the duration of the access authority.

⁹¹ Bill cl 18, proposed ss 76HA and 76HB.

⁹² SDPWO Act s 146.

⁹³ Bill cl 46, proposed s 153P(2)(b).

⁹⁴ Explanatory Notes, 12.

SDA-related development

114. State Development Areas (**SDAs**) are areas where the State has claimed jurisdiction and are declared SDAs under the SDPWO Act. This means development within SDAs is considered against the SDA development scheme, instead of usual assessment pathway under the Planning Act.

115. The Bill would enable the Coordinator-General to declare developments that are outside State Development Areas (**SDA**) but ancillary to development within the SDA as “SDA-related development”. This would greatly increase the reach and effect of an SDA scheme, as development outside the scheme could now be categorised as SDA-related development and consequently would be assessed under the SDA development scheme.

116. The Coordinator-General has stated these powers could be used in relation to transmission lines in relation to renewables projects.⁹⁵ However, the Bill simply requires that the proposed development to be declared SDA-related development either:⁹⁶

- (a) provides infrastructure for the SDA to address impacts of any development within the area, whether or not the infrastructure has another function or purpose; or
- (b) is necessary or desirable to give effect to the purpose of the SDA and cannot reasonably be located within the SDA.

117. The creation of SDA-related development would also reduce consultation opportunities for development that would otherwise have been assessed under the Planning Act, as public consultation is not required for development within an SDA.⁹⁷ Instead, consultation on SDA-related development is at the discretion of the Coordinator-General and limited to “affected entities” rather than the community generally. The Bill does not define “affected entities” so consultation on SDA-related development is entirely at the discretion of the Coordinator-General.

Recommendation 8: Amend SDA-related development to:

- (a) require public consultation prior to declaring a development as “SDA-related development”,
- (b) identify development that could constitute SDA-related development in a schedule to the Act to constrain the Coordinator-General from broadly declaring developments as SDA-related developments, and
- (c) restrict SDA-related developments to development that is strictly necessary to achieve the purpose of the SDA.

⁹⁵ Public Briefing Transcript, 6.

⁹⁶ Bill cl 36, proposed s 85D.

⁹⁷ Bill cl 36, proposed s 85C provides that consultation with ‘affected entities’ is at the discretion of the Coordinator-General.

Infrastructure coordination plans

118. While the SDPWO Act currently contains “Infrastructure Coordination Plans” (**ICPs**), the Bill proposes to develop a new process in relation to ICPs, and replaces “prescribed development” with ICPs.
119. Under the new ICP scheme, the Minister could direct the Coordinator-General to carry out an investigation into infrastructure relating to a resource project⁹⁸ and, if the Coordinator-General recommends that an ICP should be made,⁹⁹ subsequently direct the Coordinator-General to make the ICP.¹⁰⁰
120. While the new ICP scheme provides greater clarity regarding the process for the investigation and creation of ICPs than what is currently provided under the SDPWO Act, we have concerns regarding impacts on consultation and landholder rights.
121. Under the new ICP scheme proposed by the Bill, the Minister could determine a relevant planning application themselves, removing appeal rights and limiting consultation rights to opportunities where it would have otherwise been available under the *Planning Act 2016* (Qld).
122. The Coordinator-General is also given broad powers to enter land and carry out anything “reasonably necessary” on the land, including clearing vegetation, without consent from the landholder.¹⁰¹ Under the Bill, the Coordinator-General is only required to provide 7 days’ notice to the owner of the land prior to accessing the land in relation to an investigation.¹⁰²

Recommendation 9: Amend Infrastructure Coordination Plans to:

- (a) require public consultation on proposed Infrastructure Coordination Plans,
- (b) notice entry requirements for investigations in relation to ICPs should be increased from 7 days to at least 28 days, and
- (c) impose express limitations on what the Coordinator-General may do to land when conducting an investigation.

Integration with the RPI Act

123. The Bill proposes to integrate assessments and any approvals under the *Regional Planning Interests Act 2014* (Qld) (**RPI Act**) and *Transport Infrastructure Act 1994* (Qld) (**TI Act**) into the coordinated projects process under the SDPWO Act.
124. The Bill would enable the Coordinator-General’s report to be used for the purposes of assessing, approving and conditioning regional interests development approvals (**RIDAs**).¹⁰³ The Coordinator-General’s report could specify a specific outcome of the RIDA

⁹⁸ Bill cl 13, proposed s 56.

⁹⁹ Bill cl 13, proposed s 56K.

¹⁰⁰ Bill cl 13, proposed s 57.

¹⁰¹ Bill cl 13, proposed s 56F.

¹⁰² Bill cl 13, proposed s 56G(4).

¹⁰³ Bill cl 11, proposed s 49K.

application and any conditions imposed by the Coordinator-General would prevail over any conditions imposed under the RPI Act.¹⁰⁴ Similarly, for projects involving State-controlled roads and railways that require certain approvals under the TI Act, the Coordinator-General's report could provide conditions for TI Act approvals.¹⁰⁵ Again, those conditions would override any other conditions imposed under the TI Act.¹⁰⁶

125. These proposed amendments concentrate powers in the Coordinator-General and bypass decision maker who would otherwise be informed by the expertise of advisers and departmental officers in their respective portfolios.

126. RIDA Applications typically contain greater detail, including with respect to infrastructure layout and property specific impacts (this is particularly the case for petroleum and gas environmental authority applications or environmental impact statements which may only provide indications of where infrastructure may go).

127. This integration would remove a consultation opportunity that would otherwise be available under the RPI Act by no longer requiring separate notification of the development.¹⁰⁷ However, existing notification and consultation requirements for coordinated projects generally would remain.

128. Both the RPI Act and the TI Act were enacted to deal with niche areas of planning law and the unique considerations required for the types of infrastructure and competing issues dealt with under each of those Acts. Streamlining the applications of these Acts into the coordinated projects process, risks losing important nuance of the considerations required by the decision makers, under the respective Acts, as well as the wealth of experience of their departments and advisors.

129. While the EDO is not necessarily against the streamlining of applications under the RPI Act and TI Act such that these applications for approvals occur simultaneously as other approvals, we do not support the providing powers to the Coordinator-General to mandate outcomes of these applications. To date no RIDA has been refused. The Government has not justified why changes to the status quo are required, to the contrary, if any changes are required, landholder rights and protections to areas of regional planning interests should be strengthened.

Recommendation 10: Assessments and decision-making powers under the *Regional Planning Interests Act 2014* (Qld) and *Transport Infrastructure Act 1994* (Qld) should not be altered.

¹⁰⁴ Bill cl 11, proposed s 49L.

¹⁰⁵ Bill cl 11, proposed ss 49N-49O.

¹⁰⁶ Bill cl 11, proposed ss 49P.

¹⁰⁷ Bill cl 11, proposed s 49K(3).

Impacts on First Nations

130. As outlined above, the Bill would significantly impact the rights and interests of First Nations people.

131. These impacts would arise from, for example:

- (a) the Bill would expedite and facilitate expansion of extractive resources in Queensland on First Nations land, impacting on Country and Cultural Heritage without their Free, Prior and Informed Consent;
- (b) the absence of guarantees that current Cultural Heritage protections under the *Aboriginal Cultural Heritage Act 2003* (Qld) or the *Torres Strait Islander Cultural Heritage Act 2003* (Qld) (collectively, the **Qld Cultural Heritage Acts**) and that the native title framework prevails over the proposed Act, to the extent of any inconsistency; and
- (c) the removal of opportunities to be involved in key decision-making processes under the Bill and have recourse to independent review of such decisions.

132. While EDO understands that modification orders cannot override the need for a Cultural Heritage Management Plan (**CHMP**) under the Qld Cultural Heritage Acts, it is unclear whether other provisions of the Qld Cultural Heritage Acts or other relevant laws protecting First Nations rights and interests could be modified or excluded by modification orders.¹⁰⁸

133. First Nations peoples would be adversely impacted (potentially disproportionately so) by the increased opportunities for the Coordinator-General to compulsorily acquire land in the Bill and the expansion of resource activities, which may be “future acts” under the *Native Title Act 1993* (Cth) (**NT Act**). First Nations individuals and corporations that own freehold land may also, as with all freehold title holders, be impacted by the access authorities and related enabling works. The Bill also risks undermining existing agreements and arrangements, creating uncertainty between proponents and First Nations communities.

134. Further, the Bill risks inconsistency with the NT Act.⁵² It is unclear, for example, whether the Bill purports to remove current statutory rights to negotiate Indigenous Land Use Agreements held by registered native title claimants (in addition to native title holders). The Bill should be redrafted, in consultation with Native Title Representative Bodies and other First Nations stakeholders, to ensure it is consistent with the NT Act.

135. The areas of Queensland that will likely be subject to authorities and compulsory acquisition facilitated by this Bill, if passed, are areas where there are significantly higher populations of First Nations people (such as in mining regions of Queensland). The Bill therefore risks a disproportionate and discriminatory impact on First Nations in those regions.

¹⁰⁸ Bill cl 22, proposed s 76RJ(3)(d).

136. Therefore, both in substance, and in its development, the Bill is inconsistent with the rights of Aboriginal and Torres Strait Islander peoples, including those reflected in section 28 of the HR Act. This includes First Nations' rights to preserve Cultural Heritage, and to conserve and protect the environment and the productive capacity of land, territories, waters, coastal seas and other resources.

Recommendation 11: The Bill should be amended to ensure it reflects the rights and principles in UNDRIP, including the principle of Free, Prior and Informed Consent in relation to in decision-making that affects First Nations land, waters and resources.

Recommendation 12: The Bill should be amended to explicitly confirm that it does not limit or remove protections and obligations provided in relevant laws regarding First Nations rights and interests, including but not limited to, the Qld Cultural Heritage Acts, the *Nature Conservation Act 1992* (Qld) and the *Human Rights Act 2019* (Qld). This includes, for example:

- (a) amending proposed section 76RL(c) to make clear that modification orders do not override the Qld Cultural Heritage Acts; and
- (b) amending Part 6A of Subdivision 5 to provide that access authorities cannot be granted without the free, prior and informed consent of relevant affected First Nations people.

*Thank you for the opportunity to make this submission.
Please do not hesitate to contact our office should you have further enquiries.*