

*I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.*

Legislative Assembly Chamber, The Clerk of the Parliament.

Brisbane,

24 May 2019

In the name and on behalf of the Queen, I assent to this Bill.

Paul de Jersey

Government House,

Brisbane,

24 May 2019



Queensland

No. 17 of 2019

A BILL for

An Act to amend the Aboriginal and Torres Strait Islander Land Holding Act 2013, the Aboriginal Land Act 1991, the Aboriginal Land Regulation 2011, the Electricity Act 1994, the Foreign Ownership of Land Register Act 1988, the Geothermal Energy Act 2010, the Greenhouse Gas Storage Act 2009, the Land Access Ombudsman Act 2017, the Land Act 1994, the Land and Other Legislation Amendment Act 2017, the Land Regulation 2009, the Land Title Act 1994, the Land Title Regulation 2015, the Land Valuation Act 2010, the Mineral and Energy Resources (Common Provisions) Act 2014, the Mineral and Energy Resources (Financial Provisioning) Act 2018, the Mineral Resources Act 1989, the Nature Conservation Act 1992, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the Planning Act 2016, the Planning Regulation 2017, the Right to Information Act 2009, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the South East Queensland Water (Restructuring) Act 2007, the Surveyors Act 2003, the Surveyors Regulation 2014, the Torres Strait Islander Land Act 1991, the Torres Strait Islander Land Regulation 2011, the Valuers Registration Act 1992, the Vegetation Management Act 1999, the Water Act 2000, the Water Regulation 2016 and the Water Supply (Safety and Reliability) Act 2008 for particular purposes



Queensland

Natural Resources and Other Legislation Amendment Bill 2019

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2019

A Bill

for

An Act to amend the Aboriginal and Torres Strait Islander Land Holding Act 2013, the Aboriginal Land Act 1991, the Aboriginal Land Regulation 2011, the Electricity Act 1994, the Foreign Ownership of Land Register Act 1988, the Geothermal Energy Act 2010, the Greenhouse Gas Storage Act 2009, the Land Access Ombudsman Act 2017, the Land Act 1994, the Land and Other Legislation Amendment Act 2017, the Land Regulation 2009, the Land Title Act 1994, the Land Title Regulation 2015, the Land Valuation Act 2010, the Mineral and Energy Resources (Common Provisions) Act 2014, the Mineral and Energy Resources (Financial Provisioning) Act 2018, the Mineral Resources Act 1989, the Nature Conservation Act 1992, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the Planning Act 2016, the Planning Regulation 2017, the Right to Information Act 2009, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the South East Queensland Water (Restructuring) Act 2007, the Surveyors Act 2003, the Surveyors Regulation 2014, the Torres Strait Islander Land Act 1991, the Torres Strait Islander Land Regulation 2011, the Valuers Registration Act 1992, the Vegetation Management Act 1999, the Water Act 2000, the Water Regulation 2016 and the Water Supply (Safety and Reliability) Act 2008 for particular purposes

[s 1]

The Parliament of Queensland enacts—

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Natural Resources and Other Legislation Amendment Act 2019*.

2 Commencement

Chapters 3 and 5 commence on a day to be fixed by proclamation.

Chapter 2 Amendments of land legislation commencing on assent

Part 1 Amendment of Aboriginal and Torres Strait Islander Land Holding Act 2013

3 Act amended

This part amends the *Aboriginal and Torres Strait Islander Land Holding Act 2013*.

4 Amendment of s 35 (Minister may grant lease)

Section 35(1)(b)(ii)—

omit, insert—

- (ii) if the holder is deceased, an interested person in the estate of the deceased holder; and

5 Insertion of new pt 8, div 3

Part 8—

insert—

Division 3 Vesting of particular leases

69A Vesting of particular leases

- (1) This section applies in relation to a 1985 Act granted lease or a new Act granted lease if—
 - (a) the holder of the lease has died intestate; and
 - (b) there is no personal representative of the deceased holder; and
 - (c) there is no grant of representation, and no application has been made for a grant of representation, for the deceased holder; and
 - (d) a person (the *entitled successor*) is identified in a JLOMA section 60 certificate as being entitled to succeed to either—
 - (i) the whole estate of the deceased holder; or
 - (ii) a part of the estate of the deceased holder that includes, or consists of, the deceased holder's interest in the lease (the *relevant interest*); and
 - (e) the entitled successor, or an agent of the entitled successor, gives the registrar a

[s 6]

notice (a *vesting notice*), in a way required by the registrar, asking the registrar to record in the appropriate register the vesting of the relevant interest in the entitled successor in accordance with the JLOMA section 60 certificate.

- (2) The registrar must, on receiving the vesting notice, record in the appropriate register the vesting of the relevant interest in the entitled successor.
- (3) Despite any other law, the relevant interest vests in the entitled successor, in accordance with the JLOMA section 60 certificate, when the vesting of the interest is recorded under subsection (2).
- (4) Despite the *Land Act 1994* and the *Land Title Act 1994*, no fee is payable in relation to, or to give effect to, the recording of the vesting of the relevant interest.
- (5) In this section—
holder, of a new Act granted lease, includes a person to whom a new Act granted lease is granted after the person's death.

Note—

See section 35(1)(b)(i).

69B Expiry of division

This division expires on 30 June 2022.

6 Amendment of s 91 (Review of Act)

Section 91(1), '5'—

omit, insert—

10

7 Amendment of pt 11, hdg (Repeal and transitional provisions)

Part 11, heading, after ‘transitional provisions’—

insert—

for Act No. 2 of 2013

8 Insertion of new pt 12

After part 11—

insert—

**Part 12 Transitional provision
for Natural Resources
and Other Legislation
Amendment Act 2019**

96 Application of former s 69A to particular leases

- (1) This section applies on and from 1 July 2022 in relation to a 1985 Act granted lease or a new Act granted lease if—
 - (a) before the expiry of former part 8, division 3, the holder of the lease died intestate; and
 - (b) the circumstances mentioned in former section 69A(1)(b) to (e) apply in relation to the deceased holder or the entitled successor; and
 - (c) before the expiry of former part 8, division 3, the vesting of the relevant interest in the entitled successor had not been recorded under former section 69A(2).
- (2) For subsection (1)(b), it does not matter whether the JLOMA section 60 certificate under which the

[s 9]

vesting of the relevant interest is sought was signed by the chief executive before or after the expiry of former part 8, division 3.

- (3) Former section 69A(2) to (4) continues to apply in relation to the vesting of the relevant interest as if the section had not expired.
- (4) In this section—

entitled successor has the meaning given under former section 69A(1)(d).

former, in relation to a provision of this Act, means as in force immediately before the expiry of the provision.

holder, of a new Act granted lease, includes a person to whom a new Act granted lease is granted after the person's death.

Note—

See section 35(1)(b)(i).

relevant interest has the meaning given under former section 69A(1)(d)(ii).

Part 2 **Amendment of Aboriginal Land Act 1991**

9 Act amended

This part amends the *Aboriginal Land Act 1991*.

10 Amendment of s 10 (Lands that are transferable lands)

- (1) Section 10(1)—

insert—

- (c) available State land the Minister declares to be transferable land;

(2) Section 10(1)(e)—
omit.

11 Amendment of s 12 (Aboriginal reserve land)

Section 12(1), ‘the land is declared by regulation’—
omit, insert—
the Minister declares the land

12 Amendment of s 15 (Definition for div 4)

Section 15, definition *relevant land*, paragraph (b), ‘under a regulation’—
omit, insert—
by the Minister

13 Amendment of s 27 (Tidal land)

Section 27(1)—
omit, insert—
(1) Available State land includes tidal land only if the Minister declares the particular tidal land to be available State land.

14 Amendment of s 28 (Meaning of city or town land)

Section 28(2) and (3)—
omit, insert—
(2) The Minister may declare a change to the boundaries of a city or town.
(3) A declaration under subsection (2) has effect only for this Act.

[s 15]

15 Amendment of s 42 (Minister to act as soon as possible)

Section 42(2), ‘10(1)(e)’—

omit, insert—

10(1)(c)

16 Amendment of s 55 (Reservations of forest products and quarry material etc.)

(1) Section 55(1), ‘it is declared by regulation’—

omit, insert—

the Minister declares

(2) Section 55(2), ‘a regulation’—

omit, insert—

the Minister

(3) Section 55(3), ‘a regulation is made’—

omit, insert—

the Minister makes a declaration

17 Amendment of s 82 (Reservations of forest products and quarry material etc.)

(1) Section 82(1), ‘it is declared by regulation’—

omit, insert—

the Minister declares

(2) Section 82(4), ‘a regulation’—

omit, insert—

the Minister

(3) Section 82(5), ‘a regulation is made’—

omit, insert—

the Minister makes a declaration

18 Insertion of new s 249A

After section 249—

insert—

249A Name of land trust

The name of a land trust must include the words
'Land Trust' as the last 2 words.

19 Amendment of s 258 (Particular information to be recorded in register)

Section 258(2), 'prescribed under a regulation'—

omit, insert—

declared by the Minister

20 Insertion of new s 289

After section 288—

insert—

289 Register of particular declarations

- (1) The chief executive must keep a register of declarations made by the Minister under the following sections—
 - (a) section 10(1)(c);
 - (b) section 12(1);
 - (c) section 27(1);
 - (d) section 28(2);
 - (e) section 55(1) or (2);
 - (f) section 82(1) or (4);
 - (g) section 258(2).
- (2) The register may be kept in a way the chief executive considers appropriate, including, for

[s 21]

example, in electronic form.

- (3) The chief executive must make the information contained in the register publicly available on the department's website free of charge.

21 Insertion of new ss 298 and 298A

After section 297—

insert—

298 Former Aurukun Shire lease land continues to be transferable land

- (1) This section applies to former Aurukun Shire lease land that, immediately before the commencement of the amending Act, schedule 1, part 2, had not been transferred.
- (2) Despite the repeal of previous section 10(1)(c), the land continues to be, and from the commencement of the amending Act, schedule 1, part 2, continued to be, transferable land subject to section 10(2) or (3).
- (3) In this section—

amending Act means the *Aboriginal and Torres Strait Islander Land (Providing Freehold) and Other Legislation Amendment Act 2014*.

former Aurukun Shire lease land means land that was, immediately before the commencement of the amending Act, schedule 1, part 2, Aurukun Shire lease land under previous section 13.

previous, in relation to a provision, means as in force immediately before the commencement of the amending Act, schedule 1, part 2.

**298A Validation of creation of particular interests
in transferable land**

- (1) This section applies to the creation of an interest in transferable land mentioned in section 298(2) if—
 - (a) the interest was created before the commencement; and
 - (b) the Minister's consent to the creation of the interest was not requested under section 282(1)(e).
- (2) It is declared that the creation of the interest is taken to be, and to have always been, as valid as it would have been if the Minister had consented to the creation of the interest under section 282(1)(e).

22 Insertion of new pt 25, div 6

Part 25—

insert—

**Division 6 Transitional provision for
Natural Resources and
Other Legislation
Amendment Act 2019**

**310 Particular things taken to have been declared
by Minister**

- (1) This section applies if—
 - (a) immediately before the commencement, a provision of this Act (the *former provision*) required or permitted a matter to be declared by regulation; and

[s 23]

- (b) on the commencement, a provision of this Act (the *current provision*) requires or permits the matter to be declared by the Minister.
- (2) A declaration of the matter by regulation under the former provision that is in effect immediately before the commencement is, on the commencement, taken to be a declaration of the matter by the Minister under the current provision.

Part 3 **Amendment of Aboriginal Land Regulation 2011**

23 **Regulation amended**

This part amends the *Aboriginal Land Regulation 2011*.

24 **Amendment of s 3 (Definitions)**

Section 3, ‘schedule 5’—

omit, insert—

schedule 3

25 **Omission of pt 6 (Declarations)**

Part 6—

omit.

26 **Renumbering of pt 6A (Protected areas in Cape York Peninsula Region)**

Part 6A—

renumber as part 6.

27 Amendment of s 48A (Prescribed protected areas—Act, s 173)

Section 48A, ‘schedule 4A’—

omit, insert—

schedule 1

28 Insertion of new s 48AA

Before section 49—

insert—

**48AA Available State land that is claimable land—
Act, s 23**

For section 23(1)(a) of the Act, the available State land described in schedule 2 is declared to be claimable land.

29 Amendment of s 49 (References to plans)

Section 49, ‘to 4A’—

omit, insert—

and 2

30 Omission of s 50A (Change to boundaries of particular city—Act, s 28)

Section 50A—

omit.

31 Omission of schs 1 and 2

Schedules 1 and 2—

omit.

[s 32]

32 Amendment of sch 3 (Available State land that is claimable land)

Schedule 3, authorising provision, ‘section 47’—
omit, insert—
section 48AA

33 Omission of sch 4 (Aboriginal reserve land)

Schedule 4—
omit.

34 Relocation and renumbering of sch 4A (Prescribed protected areas)

Schedule 4A—
relocate and renumber as schedule 1.

35 Renumbering of schs 3 and 5

Schedules 3 and 5—
renumber as schedules 2 and 3.

**Part 4 Amendment of Foreign
Ownership of Land Register
Act 1988**

36 Act amended

This part amends the *Foreign Ownership of Land Register Act 1988*.

37 Omission of s 16 (Annual report)

Section 16—

omit.

Part 5 Amendment of Land Act 1994

38 Act amended

This part amends the *Land Act 1994*.

Note—

See also the amendments in chapter 3, part 1.

39 Amendment of s 16 (Deciding appropriate tenure)

(1) Section 16(2) to (4)—

omit, insert—

(2) When conducting the evaluation, the chief executive must—

- (a) take account of State, regional and local planning strategies and policies and the object of this Act; and
- (b) take account of commitments of, and undertakings given by, the State in relation to the land; and
- (c) to the extent the land is in a priority development area—take account of, and give primary consideration to, any relevant development instrument under the *Economic Development Act 2012* that applies to the land; and
- (d) to the extent the land is Cape York agreement land—take account of commitments and undertakings given by a

[s 40]

person under, or arising from, a Cape York agreement that have effect in relation to tenure.

- (3) The chief executive may comply with subsection (1) by using, as the evaluation, an earlier assessment of the most appropriate tenure and use for the land if—
- (a) the assessment was conducted by or for the State; and
 - (b) the chief executive is satisfied the assessment takes account of the matters mentioned in subsection (2).
- (2) Section 16(5) and (6)—
renumber as section 16(4) and (5).

40 Amendment of s 100 (Public notice of closure)

Section 100(5), definitions *appropriate enquiries* and *appropriate public notice*—

omit, insert—

appropriate enquiries, in relation to a road closure application, includes giving notice of the proposed road closure to each registered owner and lessee of the following land—

- (a) for a road closure application to close an entire road—land that wholly or partly adjoins the road;
- (b) for a road closure application to close only part of a road—
 - (i) land that wholly or partly adjoins the part; and
 - (ii) land that adjoins land mentioned in subparagraph (i) and the road;

-
- (c) land, other than land mentioned in paragraph (a) or (b), that has a dedicated access that may be affected by the proposed road closure.

appropriate public notice, of a road closure application, includes—

- (a) placing and keeping a notice in a conspicuous place on or near—
- (i) for a road closure application to close an entire road—the road; or
 - (ii) for a road closure application to close only part of a road—the part; or
- (b) another method of notifying the public the Minister reasonably considers appropriate.

41 Replacement of ch 6, pt 4, div 3A (Mediation for disputes about terms of particular subleases)

Chapter 6, part 4, division 3A—

omit, insert—

Division 3A Process for resolving disputes under particular subleases

Subdivision 1 Preliminary

339A Definitions for division

In this division—

dispute notice see section 339F(1).

notifier see section 339F(1).

prescribed dispute resolution entity means an

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entity, prescribed by regulation, that nominates mediators or arbitrators.

related subleases means subleases of the same lease.

related sublessee means a sublessee under a related sublease.

responder see section 339F(1).

response see section 339G(1).

339B Application of division

- (1) This division applies in relation to a sublease, other than a sublease of trust land or transport land, if—
 - (a) there is a dispute between any or all of the parties to the sublease about—
 - (i) its terms, including, for example, any amount payable under it; or
 - (ii) conduct of a party that affects, or may affect, another party's rights or obligations under the sublease; and
 - (b) no other Act establishes a dispute resolution process that specifically deals with disputes of that type; and
 - (c) the sublease does not include a dispute resolution process that is capable of being used to resolve the dispute.
- (2) However, this division does not apply in relation to a dispute if the dispute—
 - (a) is the subject of a current proceeding between the parties to the dispute or a current dispute resolution process under this division; or

- (b) was the subject of a proceeding that finally decided the dispute; or
- (c) was the subject of a dispute resolution process under this division that resulted in—
 - (i) the parties to the dispute entering into a binding and enforceable agreement resolving the dispute; or
 - (ii) an award being issued under section 339Q.

339C Related disputes may be resolved together

- (1) This section applies if—
 - (a) for 2 or more related subleases, there are disputes (*related disputes*) to which this division applies; and
 - (b) each related dispute is about—
 - (i) an identical, or substantially similar, term in each related sublease; or
 - (ii) identical, or substantially similar, conduct of the sublessor in relation to each related sublease; and
 - (c) each related sublessee has complied with subdivision 2 to the extent that subdivision applies to the related sublessee.
- (2) The related disputes must be resolved under subdivision 3 or 4 in the same dispute resolution process, by the same mediator or arbitrator, if—
 - (a) the related sublessees agree to the disputes being resolved in that way; and
 - (b) the mediator or arbitrator agrees to resolve the disputes in that way.
- (3) If subsection (2) applies, a reference to a party to

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the dispute in section 339D, or subdivision 3 or 4, includes a reference to each related sublessee.

339D Admissibility of evidence

- (1) This section applies to—
 - (a) evidence of anything done or said, or an admission made, by a party for the purpose of a dispute resolution process under this division; or
 - (b) a document prepared for the purpose of a dispute resolution process under this division.
- (2) The evidence or document is admissible at the trial of a civil proceeding only if all parties to the dispute resolution process agree to the admission of the evidence or document.
- (3) In this section—

civil proceeding does not include a proceeding under this Act about a lessee's contravention of this Act under section 339K(5).

339E Liability of prescribed dispute resolution entity

A prescribed dispute resolution entity does not incur civil liability for an act or omission in the performance, or purported performance, of a function under section 339I(3) or 339O(3) unless the act or omission is done or made in bad faith or through negligence.

Subdivision 2 Notice of dispute

339F Notice of dispute

- (1) A party to the sublease (the *notifier*) may give another party to the sublease (the *responder*) written notice of the dispute (a *dispute notice*).
- (2) The dispute notice must state the following matters—
 - (a) the parties to the dispute;
 - (b) a summary of the dispute, including the following matters—
 - (i) the terms of the sublease the notifier considers relevant to the dispute;
 - (ii) details of the conduct of a party the notifier considers relevant to the dispute;
 - (iii) any other information the notifier considers relevant for resolving the dispute;
 - (c) that the responder must, within 20 days of receiving the notice, give the notifier a written response to the notice;
 - (d) any other information prescribed by regulation.
- (3) The notifier may, in the dispute notice, ask the responder to give the notifier information the notifier reasonably requires for resolving the dispute.

339G Response to dispute notice

- (1) The responder must give the notifier a written response to the dispute notice (a *response*) within 20 days of receiving the notice.
- (2) The response must state—

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- (a) the responder's response to the summary of the dispute in the dispute notice, including the following matters—
 - (i) any information the responder agrees or disagrees with;
 - (ii) the terms of the sublease the responder considers relevant to the dispute;
 - (iii) details of the conduct of a party the responder considers relevant to the dispute;
 - (iv) any other information the responder considers relevant for resolving the dispute; and
 - (b) any other information prescribed by regulation.
- (3) If the dispute notice includes a request under section 339F(3), the responder must comply with the request in the response unless the responder has a reasonable excuse.
 - (4) The responder may, in the response, ask the notifier to give the responder further information the responder reasonably requires for resolving the dispute.
 - (5) The notifier must comply with a request under subsection (4) within 20 days of receiving the response unless the notifier has a reasonable excuse.

339H Requirement for mediation before arbitration

- (1) This section applies if—
 - (a) the responder does not comply with section 339G(1), (2) or (3); or

- (b) the notifier does not comply with section 339G(5); or
 - (c) the parties to the dispute comply with section 339G, to the extent that section applies to each party, and the dispute remains unresolved.
- (2) Unless the parties to the dispute agree otherwise, the parties must attempt to resolve the dispute by mediation before submitting the dispute to arbitration.

Subdivision 3 Mediation

339I Appointment of mediator

- (1) The parties to the dispute may jointly appoint a mediator to mediate the dispute.
- (2) A party to the dispute may request a prescribed dispute resolution entity to appoint a mediator if—
 - (a) another party to the dispute does not comply with section 339G to the extent that section applies to the other party; or
 - (b) the parties are otherwise unable to agree to the joint appointment of a mediator.
- (3) If a request is made to a prescribed dispute resolution entity under subsection (2), the prescribed dispute resolution entity must appoint an appropriately qualified mediator to mediate the dispute.

339J Time for mediation

- (1) The parties to the dispute may agree to a time for the mediation.

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- (2) A party to the dispute may request the mediator to set a time for the mediation if—
 - (a) another party to the dispute does not comply with section 339G to the extent that section applies to the other party; or
 - (b) the parties are otherwise unable to agree to a time.
- (3) If a request is made to the mediator under subsection (2), the mediator must set a time for the mediation after consulting with each party to the dispute.

339K Conduct of mediation

- (1) The mediation must be conducted—
 - (a) by the mediator appointed under section 339I; and
 - (b) at a time agreed to or set under section 339J; and
 - (c) in the way decided by the mediator and the parties to the dispute.
- (2) Despite subsection (1)(b), the mediator may decide to conduct the mediation at a later time, or adjourn the mediation, if—
 - (a) the parties to the dispute agree; or
 - (b) the mediator considers it reasonably necessary.
- (3) The parties to the dispute must participate in the mediation in good faith to attempt to resolve the dispute.

Examples of participating in the mediation in good faith—

- attending meetings the parties have agreed to attend
- doing all things necessary for the proper and expeditious conduct of the mediation

- complying without undue delay with mediation procedures agreed to by the mediator and the parties
 - disclosing without undue delay relevant information as appropriate for the mediation
 - ensuring a party's agent at a mediation is authorised to reach agreement for the party
- (4) A party to the dispute may be represented by an agent appointed by the party.
- (5) If a lessee who is a party to the dispute, in relation to a sublease of the lessee's lease, contravenes subsection (3), the lessee is taken to have contravened a provision of this Act in relation to the lease.
- (6) For a proceeding under this Act about a lessee's contravention of this Act under subsection (5), evidence about the lessee's participation in a mediation may include evidence about the steps taken by the lessee to prepare for the mediation.

339L Costs of mediation

- (1) The parties to the dispute must pay the mediator the costs of the mediation in equal shares.
- (2) If section 339C(2) applies to the dispute, all related sublessees must be treated as a single party to the dispute for subsection (1).
- (3) This section does not apply if the parties to the dispute and the mediator agree on how the costs of the mediation will be paid.

339M When mediation ends

The mediation ends if—

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- (a) the parties to the dispute enter into a binding and enforceable agreement resolving the dispute; or
- (b) an arbitral proceeding in respect of the dispute starts under subdivision 4; or
- (c) a party to the dispute starts any other proceeding in relation to the dispute; or
- (d) the mediator and the parties to the dispute agree to end the mediation; or
- (e) the mediator decides continuing the mediation has, for any other reason, become unnecessary or impossible.

Subdivision 4 Arbitration

339N Application of Commercial Arbitration Act 2013

The *Commercial Arbitration Act 2013* applies to an arbitration under this subdivision to the extent that Act is not inconsistent with this subdivision.

339O Appointment of arbitrator

- (1) The parties to the dispute may jointly appoint a single arbitrator to decide the dispute.
- (2) If the parties to the dispute agree to submit the dispute to arbitration, but are unable to agree on the joint appointment of an arbitrator, a party to the dispute may request a prescribed dispute resolution entity to appoint a single arbitrator to decide the dispute.
- (3) If a request is made to a prescribed dispute resolution entity under subsection (2), the prescribed dispute resolution entity must appoint

an appropriately qualified arbitrator to decide the dispute.

339P Commencement of arbitral proceedings

Arbitral proceedings in respect of the dispute commence on—

- (a) the day an arbitrator is appointed to decide the dispute; or
- (b) a later day agreed by the parties to the dispute.

339Q Arbitrator's functions

- (1) The arbitrator has authority to decide the dispute by issuing an award.
- (2) The award must not be inconsistent with a term of the lease under which the sublease is granted.
- (3) The award must be issued—
 - (a) within 6 months after the appointment of the arbitrator; or
 - (b) if the arbitrator decides—within 9 months after the appointment of the arbitrator; or
 - (c) if the parties to the dispute agree to extend the period mentioned in paragraph (a) or (b)—before the expiry of the extended period.
- (4) A regulation may prescribe matters the arbitrator must consider in deciding the dispute.
- (5) A regulation made under subsection (4) does not limit the matters the arbitrator may consider.

339R Experts appointed by arbitrator

- (1) The arbitrator may—
 - (a) appoint a qualified person (an *appointed expert*) to report to the arbitrator on specific issues decided by the arbitrator; and
 - (b) require a party to the dispute to give the appointed expert any relevant information or to produce, or provide access to, any relevant documents or other property for the appointed expert's inspection.
- (2) If a party to the dispute requests, or if the arbitrator considers it necessary, the appointed expert must, after delivering the appointed expert's written or oral report, participate in a hearing at which the parties to the dispute have the opportunity to put questions to the appointed expert and present persons with relevant expertise to give evidence on the points at issue.
- (3) In this section—

qualified person, for reporting on a specific issue, means a person with—

 - (a) qualifications, competencies and experience relevant to the specific issue; or
 - (b) demonstrated knowledge of particular fields of knowledge relevant to the specific issue.

339S Law applicable to arbitration

The arbitrator must decide the dispute in accordance with the law of Queensland and relevant Commonwealth law.

339T Effect of arbitrator's decision and limitation of review

- (1) This section applies to a decision of the arbitrator on a matter in dispute between the parties to the dispute.
- (2) The decision has the same effect as if the parties to the dispute had entered into a binding and enforceable agreement to the same effect as the decision.
- (3) Subject to subsections (4) to (5), the decision—
 - (a) is final and conclusive; and
 - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (4) The *Judicial Review Act 1991*, part 5 applies to the decision to the extent it is affected by jurisdictional error.
- (4A) Also, the Supreme Court may, on the application of a party to the dispute, set aside the decision if—
 - (a) the decision was induced or affected by the improper behaviour of a party to the dispute; or
Examples of improper behaviour—
fraud, duress, undue influence
 - (b) at any time during the arbitral proceeding, the party was a person with impaired capacity for a matter within the meaning of

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the *Guardianship and Administration Act 2000*; or

- (c) a breach of the rules of natural justice happened in relation to the making of the decision.
- (5) The decision does not limit or otherwise affect a power of the chief executive under division 3.
- (6) In this section—

decision includes a decision, or conduct, leading up to or forming part of the process of making a decision.

339U Costs of arbitration

- (1) The parties must pay the costs of the arbitration in equal shares.
- (2) If section 339C(2) applies to the dispute, all related sublessees must be treated as a single party to the dispute for subsection (1).
- (3) Subsections (1) and (2) do not apply if—
 - (a) the parties to the dispute agree on how the costs of the arbitration will be paid; or
 - (b) the arbitrator decides how the costs of the arbitration will be paid.
- (4) Without limiting subsection (3)(b), the arbitrator, when making a decision about the costs of the arbitration, must take into account any matters prescribed by regulation.

42 Amendment of s 375 (Document of transfer to trustee)

Section 375(1)(b)—

omit, insert—

- (b) either of the following is deposited with the transfer—
 - (i) a document, in the form required by the chief executive, stating details of the trust;
 - (ii) a certified copy of a document creating the trust.

42A Amendment of section 390C (Definitions for chapter)

Section 390C, definitions *occupier* and *of*—
omit.

43 Amendment of s 393 (Delegation by chief executive)

Section 393(4A)—
omit.

44 Amendment of s 394 (Committees)

Section 394(1), ‘must’—
omit, insert—
may

45 Insertion of new ch 7, pt 3C

Chapter 7—
insert—

Part 3C Access to State land

Division 1 Preliminary

[s 45]

431ZA Definitions for part

In this part—

adjacent land, in relation to relevant land, means land that is adjacent to the relevant land, whether or not the land adjoins the relevant land.

authorised activity means an activity lawfully carried out on relevant land—

- (a) for the management or care of the land; or
- (b) to otherwise ensure compliance with this Act or another Act or law.

interested person see section 431ZG(1)(b).

relevant land means land managed or cared for by the chief executive for the State, including, for example, the following land—

- (a) freehold land of which the State is the registered owner;
- (b) lease land of which the State is the registered lessee;
- (c) licence land or permit land for which the State has occupation or management rights under a licence or permit;
- (d) unallocated State land;
- (e) a reserve of which the State is the trustee or of which there is no trustee;
- (f) land that is the property of the State under this Act or another Act.

relevant person, in relation to relevant land, means—

- (a) an authorised person; or
- (b) a person authorised by the chief executive under section 431ZB(1) to carry out an authorised activity on the land; or

- (c) a person engaged by the State under a contract or other arrangement to carry out an authorised activity on the land.

Division 2 Entry to adjacent land

431ZB Authorisation of persons to carry out authorised activities

- (1) The chief executive may authorise a person to carry out an authorised activity on relevant land.
- (2) An authorisation under subsection (1) must be in writing and state the period for which the person is authorised to carry out the authorised activity.

431ZC Notice of entry

- (1) A relevant person who intends to enter adjacent land under this part must give the occupier of the land written notice of the entry.
- (2) The written notice must state the following matters—
 - (a) the relevant person is permitted, under this Act, to enter the adjacent land without consent or a warrant to carry out authorised activities on relevant land;
 - (b) the period during which the entry will be made;
 - (c) the authorised activities that will be carried out on the relevant land;
 - (d) the period during which the authorised activities mentioned in paragraph (c) will be carried out;

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- (e) the number of persons and things the relevant person intends to take into or over the adjacent land to carry out the authorised activities mentioned in paragraph (c).
- (3) However, before the relevant person gives the written notice under subsection (1), the relevant person must make a reasonable attempt to contact the occupier of the adjacent land and obtain the occupier's consent to the entry.

431ZD Entering adjacent land for authorised activities

- (1) A relevant person may, without consent or a warrant, enter adjacent land if—
 - (a) the entry is for the purpose of carrying out an authorised activity on relevant land; and
 - (b) the relevant person has no other reasonably practicable way of entering the relevant land without entering the adjacent land; and
 - (c) the relevant person has given written notice (the *notice*) of the entry under section 431ZC; and
 - (d) the entry—
 - (i) happens during the period stated in the notice but after the notice period has ended; and
 - (ii) is for the purpose of carrying out an authorised activity stated in the notice.
- (2) The relevant person may, when entering the adjacent land, take into or over the adjacent land any person or thing the relevant person reasonably requires for carrying out an authorised activity stated in the notice.

Examples of things the relevant person may reasonably require for carrying out an authorised activity—

vehicles, tools, building or landscaping supplies

- (3) However, subsections (1) and (2) do not authorise—
- (a) entry of a structure, or a part of a structure, without the consent of the occupier of the structure or part; or
 - (b) entry of adjacent land between 6p.m. and 7a.m. unless the entry is reasonably necessary to carry out an authorised activity stated in the notice during that period.

- (4) In this section—

enter includes re-enter.

notice period means a period of 10 business days starting on the day the occupier of the adjacent land is given the notice.

Division 3 Damage to adjacent land

431ZE Duty to avoid inconvenience and minimise damage

A relevant person, or another person, who enters adjacent land under this part, or with the consent of the occupier of the land, must take all reasonable steps to avoid—

- (a) causing inconvenience to the occupier; and
- (b) damaging the land or anything on the land.

431ZF Relevant person must give notice of damage

- (1) This section applies if—

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- (a) a relevant person, or another person, enters adjacent land under this part, or with the consent of the occupier of the land, to carry out an authorised activity; and
 - (b) the relevant person or other person causes or contributes to damage to the land or something on the land.
- (2) However, this section does not apply if—
- (a) the relevant person reasonably considers the damage is trivial; or
 - (b) for damage to a thing—the relevant person reasonably believes there is no-one in possession of the thing.
- (3) The relevant person must give notice of the damage to the occupier of the adjacent land.
- (4) However, if it is not practicable to comply with subsection (3), the relevant person must—
- (a) leave the notice at the place where the damage happened; and
 - (b) ensure the notice is left in a conspicuous position and in a reasonably secure way.
- (5) The notice must state—
- (a) particulars of the damage; and
 - (b) that the owner of the land or thing may seek remediation of the damage under this division.
- (6) If the relevant person believes the damage was caused by a latent defect, or other circumstances beyond the control of the person who caused or contributed to the damage, the relevant person may state the belief in the notice.

431ZG Notice of damage

- (1) This section applies if—
 - (a) a relevant person, or another person, enters adjacent land under this part, or with the consent of the occupier of the land, to carry out an authorised activity; and
 - (b) a person (the *interested person*) reasonably believes the relevant person or other person has caused or contributed to damage to the land or something on the land; and
 - (c) the interested person owns the land or thing.
- (2) The interested person may give the chief executive written notice of the damage.
- (3) The notice must include the following information—
 - (a) details of the damage;
 - (b) details of the entry during which the interested person believes the damage was caused or contributed to;
 - (c) whether the interested person believes the land or thing can be returned to the condition it was in before the damage;
 - (d) the remedial action the interested person considers—
 - (i) if the interested person maintains the belief mentioned in paragraph (c)—reasonably necessary to return the land or thing to the condition it was in before the damage; or
 - (ii) otherwise—appropriate having regard to the consequences of the damage to use of the land or thing.
- (4) Within 30 days of receiving the notice, the chief

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executive must notify the interested person of whether the chief executive will enter into a remediation agreement under section 431ZH.

431ZH Remediation agreement

- (1) This section applies if—
 - (a) an interested person gives the chief executive a notice under section 431ZG within the notice period; or
 - (b) if an interested person gives a notice under section 431ZG after the notice period has ended—the chief executive is satisfied the person has a reasonable excuse for not giving the notice within the notice period.
- (2) The chief executive may enter into an agreement (a **remediation agreement**) with the interested person to take remedial action in relation to the land or thing stated in the notice.
- (3) A remediation agreement has no effect unless it is—
 - (a) in writing; and
 - (b) signed by or for the parties to the agreement; and
 - (c) filed at an office of the department.
- (4) A remediation agreement is binding on the parties to the agreement and the parties' personal representatives, successors and assigns.
- (5) At any time before a remediation agreement is made, the interested person may apply in writing to the court to have the court decide what remedial action, if any, will be taken in relation to the land or thing.
- (6) In this section—

notice period, in relation to a notice mentioned in section 431ZG, means 30 days from the last day on which the relevant person, or the other person, mentioned in section 431ZG(1)(a) entered the adjacent land for the purpose of carrying out an authorised activity.

431ZI Court's decision about remedial action

- (1) This section applies if an interested person makes an application to the court under section 431ZH(5).
- (2) The court must fix a date for the hearing and immediately give written notice of the date to—
 - (a) the chief executive; and
 - (b) the interested person.
- (3) The date for the hearing must be at least 20 business days after the day on which it is fixed by the court.
- (4) If the court considers it appropriate, the court may order that remedial action be taken in relation to the land or thing stated in the notice.
- (5) In deciding whether to order remedial action, or what remedial action should be ordered, the court may consider the following matters—
 - (a) whether it is likely the damage to the land or thing was caused or contributed to by a relevant person or another person entering the adjacent land under this part, or with the consent of the occupier of the land, to carry out an authorised activity;
 - (b) whether the damage was reasonably necessary for carrying out the authorised activity;

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- (c) whether the person who caused or contributed to the damage took reasonable steps to avoid the damage;
 - (d) whether the land or thing can be returned to the condition it was in before the damage;
 - (e) the consequences of the damage on the use of the land or thing by the interested person;
 - (f) whether the claim is vexatious.
- (6) An order made under subsection (4) may state—
- (a) when the remedial action is to be taken; and
 - (b) conditions on which the remedial action is to be taken.
- (7) The court may, for a matter decided under this section, make any order about costs the court considers appropriate.

46 Amendment of s 434B (Availability of short-term extension in particular circumstances)

Section 434B(3), ‘subsection (1)’—

omit, insert—

subsection (2)

47 Insertion of new ch 9, pt 4

Chapter 9—

insert—

Part 4

**Transitional provisions
for Natural Resources
and Other Legislation
Amendment Act 2019**

Division 1 Preliminary

530 Definitions for part

In this part—

former, in relation to a provision, means as in force from time to time before the commencement of the section in which the term is used.

new, in relation to a provision, means as in force on the commencement of the section in which the term is used.

Division 2 Provision relating to alternative dispute resolution

531 Existing disputes

- (1) New chapter 6, part 4, division 3A applies in relation to a dispute mentioned in new section 339B whether the dispute started before or after the commencement.
- (2) However, new chapter 6, part 4, division 3A does not apply in relation to a dispute if, before the commencement, the dispute was referred to mediation under former section 339B.

Division 3 Provisions relating to road closures

[s 48]

532 Steps taken in relation to road closure applications before commencement

- (1) This section applies if, before the commencement, the Minister—
 - (a) had complied with former section 100(1)(a) and (b), or had acted under former section 100(2), in relation to a road closure application; but
 - (b) had not dealt with the application under section 101.
- (2) The Minister is taken to have—
 - (a) if the Minister complied with former section 100(1)(a) and (b)—complied with new section 100(1)(a) and (b); or
 - (b) if the Minister acted under former section 100(2)—acted under new section 100(2).

48 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *occupier* and *of—omit.*
- (2) Schedule 6—
insert—

adjacent land, in relation to relevant land, for chapter 7, part 3C, see section 431ZA.

authorised activity, for chapter 7, part 3C, see section 431ZA.

dispute notice, for chapter 6, part 4, division 3A, see section 339F(1).

interested person, for chapter 7, part 3C, see section 431ZG(1)(b).

notifier, for chapter 6, part 4, division 3A, see

section 339F(1).

occupier, of a place, for chapter 6A and chapter 7, part 3C, includes the following persons—

- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;
- (c) if no-one apparently occupies the place—
 - (i) for a place that is non-freehold land—the lessee, licensee, permittee or trustee of the land; or
 - (ii) for a place that is freehold land—any person who is a registered owner of the place.

of, a place, includes at or on the place.

prescribed dispute resolution entity, for chapter 6, part 4, division 3A, see section 339A.

related subleases, for chapter 6, part 4, division 3A, see section 339A.

related sublessee, for chapter 6, part 4, division 3A, see section 339A.

relevant land, for chapter 7, part 3C, see section 431ZA.

relevant person, in relation to relevant land, for chapter 7, part 3C, see section 431ZA.

remedial action, in relation to land or a thing that has suffered damage, means—

- (a) action to return the land or thing to the condition it was in before the damage; or

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- (b) other appropriate action performed on the land or thing that is of the same, or a similar, value to the action mentioned in paragraph (a).

responder, for chapter 6, part 4, division 3A, see section 339F(1).

response, for chapter 6, part 4, division 3A, see section 339G(1).

Part 6 **Amendment of Land and Other Legislation Amendment Act 2017**

49 Act amended

This part amends the *Land and Other Legislation Amendment Act 2017*.

50 Omission of ss 25–30

Sections 25 to 30—

omit.

Editor's note—

Legislation ultimately amended—

- *Land Act 1994*

51 Amendment of sch 1 (Other amendments)

Schedule 1, part 2, amendments 1 to 7 and 9 to 11—

omit.

Editor's note—

Legislation ultimately amended—

- *Land Act 1994*

Part 7 Amendment of Land Regulation 2009

52 Regulation amended

This part amends the *Land Regulation 2009*.

53 Insertion of new pt 5A

After section 47—

insert—

Part 5A Dispute resolution

47A Prescribed dispute resolution entities—Act, 339A

For section 339A of the Act, definition *prescribed dispute resolution entity*, the following entities are prescribed—

- (a) the Queensland Law Society Incorporated
ABN 33 423 389 441;
- (b) the Resolution Institute ABN 69 008 651
232.

47B Matters arbitrator must consider in deciding dispute—Act, s 339Q

For section 339Q(4) of the Act, the arbitrator must consider any evidence supplied to the arbitrator.

47C Matters arbitrator must consider in deciding costs—Act, s 339U

For section 339U(4) of the Act, the following matters are prescribed—

[s 54]

- (a) whether or not a party to the dispute has complied with chapter 6, part 4, division 3A of the Act in relation to the dispute;
- (b) whether a party to the dispute has made a frivolous or vexatious claim in the arbitration;
- (c) whether a party to the dispute has complied with an order or direction of the arbitrator;
- (d) whether a party to the dispute has participated in the arbitration in good faith;
- (e) the amount of any fees incurred because of the appointment of experts under section 339R of the Act.

54 Amendment of sch 11 (Fees)

Schedule 11, item 2(p)—

omit.

Part 8 Amendment of Land Title Act 1994

55 Act amended

This part amends the *Land Title Act 1994*.

Note—

See also the amendments in chapter 3, part 2.

56 Amendment of s 94 (Meaning of *high-density development easement*)

Section 94(4), definition *small*, ‘300m²’—

omit, insert—

450m²

57 Amendment of s 110 (Instrument of transfer to trustee)

Section 110(3)—

omit, insert—

- (3) A document, in the form required by the registrar, stating details of the trust, or a certified copy of a document creating the trust, must be deposited with the instrument of transfer.

58 Amendment of s 140 (Effect of priority notice)

(1) Section 140(2)—

insert—

(ca) a related instrument that is lodged in the order stated in the notice; or

(2) Section 140(2)(ca) to (e)—

renumber as section 140(2)(d) to (f).

(3) Section 140—

insert—

- (3) Also, the priority notice (the **current notice**) does not prevent the registration of an instrument to which another priority notice for the lot (the **earlier notice**) relates if—
 - (a) the earlier notice was deposited before the current notice; and
 - (b) the earlier notice has not lapsed or been withdrawn, removed or cancelled.

59 Amendment of s 142 (Lapsing of priority notice)

Section 142(b), 'lodged'—

[s 60]

omit, insert—
registered

60 Amendment of s 148 (Priority of instruments)

Section 148(1), ‘lodgment’—

omit, insert—
lodgement

61 Insertion of new pt 12, div 8

Part 12—

insert—

**Division 8 Transitional provisions for
Natural Resources and
Other Legislation
Amendment Act 2019**

218 Application of s 94

Section 94, as amended by the *Natural Resources and Other Legislation Amendment Act 2019*, applies in relation to a high-density development easement only if it is created after the commencement.

**Part 9 Amendment of Land Valuation
Act 2010**

62 Act amended

This part amends the *Land Valuation Act 2010*.

63 Amendment of s 18 (What is a *bona fide* sale)

Section 18(3)—

insert—

- (c) the terms and conditions of the sale are reasonable having regard to the matters mentioned in subsection (2)(a) and (b);

64 Amendment of s 53 (Valuer-general's power)

Section 53(2)(a)—

omit, insert—

- (a) it is possible to lawfully subdivide the stated part from the rest of the lot; and

65 Amendment of ch 10, hdg (Repeal, savings and transitional provisions)

Chapter 10, heading, after 'transitional provisions'—

insert—

for Act No. 39 of 2010

66 Amendment of s 268 (Operation and application of pt 3)

Section 268—

insert—

Note—

See, however, section 303 in relation to the application of this part.

67 Insertion of new ch 11

After chapter 10—

insert—

Chapter 11 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2019

303 Application of ch 10, pt 3

- (1) From the commencement, chapter 10, part 3 ceases to have any effect other than to the extent provided under subsection (2).
- (2) Chapter 10, part 3 continues to apply in relation to a relevant proceeding that, before the commencement, was started but not finally dealt with.
- (3) This section applies despite the *Acts Interpretation Act 1954*, sections 20 and 20A.
- (4) In this section—

relevant proceeding means a proceeding relating to a decision of the valuer-general about a saved valuation.

68 Amendment of schedule (Dictionary)

Schedule, definition *lot*—

insert—

- (g) land in the area of a mining lease, geothermal lease, GHG lease or petroleum lease.

Part 10 **Amendment of Surveyors Act 2003**

69 Act amended

This part amends the *Surveyors Act 2003*.

70 Amendment of s 5 (Mutual recognition legislation not affected)

Section 5, ‘*Trans-Tasman Mutual Recognition (Queensland)
Act 1999*’—

omit, insert—

*Trans-Tasman Mutual Recognition (Queensland)
Act 2003*

71 Amendment of s 12 (Membership of board)

Section 12(1) to (3)—

omit, insert—

- (1) The board must consist of 9 individuals.
- (2) Subject to subsection (1), a regulation may require the board to consist of individuals with particular qualifications or experience or who hold a particular type of position.
- (3) The members must be appointed by the Governor in Council.

72 Amendment of s 19 (Vacation of office)

(1) Section 19(1)(e) to (g)—

omit, insert—

- (e) was appointed because the member had particular qualifications or experience, or

[s 73]

held a particular type of position, and the member stops having the qualifications or experience or holding a position of that type.

(2) Section 19—

insert—

(1A) Subsection (1)(e) does not apply if, despite the member no longer having the qualifications or experience or holding a position of that type, the membership of the board still complies with section 12(2).

(3) Section 19(1A) and (2)—

renumber as section 19(2) and (3).

73 Amendment of s 21 (Casual vacancy in member's office)

Section 21(3) and (4)—

omit, insert—

(3) If the vacating member had particular qualifications or experience, or held a particular type of position, required under section 12(2), the new member must have the same qualifications or experience or hold a position of the same type.

74 Amendment of s 22 (Leave of absence for a member)

Section 22(3)—

omit, insert—

(3) If the member has particular qualifications or experience, or holds a particular type of position, required under section 12(2), the person appointed must have the same qualifications or experience or hold a position of the same type.

75 Replacement of s 27 (Quorum)

Section 27—

omit, insert—

27 Quorum

A quorum for the board is a majority of the members at the time the meeting is held.

76 Replacement of ss 75 and 76

Sections 75 and 76—

omit, insert—

75 Carrying out cadastral surveys

- (1) A person who is not a registrant must not carry out a cadastral survey.

Maximum penalty—100 penalty units.

- (2) A person who is a registrant must not carry out a cadastral survey if the person is not a cadastral surveyor.

Maximum penalty—100 penalty units.

- (3) However, a person does not commit an offence against subsection (2) if—

(a) the person carries out the cadastral survey under the supervision of a cadastral surveyor; and

(b) the level of supervision by the cadastral surveyor complies with a guideline mentioned in section 188A(2)(a).

- (4) In this section—

registrant does not include an emeritus surveyor.

[s 77]

76 Carrying on a business providing cadastral surveying services

- (1) A person who is not a consulting cadastral surveyor must not carry on a business providing services relating to carrying out cadastral surveys.

Maximum penalty—50 penalty units.

- (2) A person who is not a consulting cadastral surveyor must not charge a fee for carrying out a cadastral survey.

Maximum penalty—50 penalty units.

77 Amendment of s 130 (Appointment)

- (1) Section 130(1)—

omit, insert—

- (1) The board may appoint an appropriately qualified person as an investigator.

- (1A) However, the board may not appoint a member as an investigator.

- (2) Section 130(1A) and (2)—

renumber as section 130(2) and (3).

78 Amendment of s 144 (General powers after entering places)

- (1) Section 144(3)(d), before ‘carry’—

insert—

if the investigator is a surveyor—

- (2) Section 144(3)(e), before ‘place’—

insert—

if the investigator is a surveyor—

79 Insertion of new s 188B

After section 188A—

insert—

188B Board may delegate functions to board members

- (1) The board may delegate a function of the board to—
 - (a) an appropriately qualified member; or
 - (b) an appropriately qualified employee of the board.
- (2) However, subsection (1) does not apply in relation to the following functions—
 - (a) the establishment of a competency framework;
 - (b) the accreditation of an entity for assessing the competency of persons under the competency frameworks;
 - (c) deciding an application for registration as a surveyor, or registration endorsement, other than an application to which the *Mutual Recognition (Queensland) Act 1992* or the *Trans-Tasman Mutual Recognition (Queensland) Act 2003* applies;
 - (d) deciding to monitor a registrant's compliance with disciplinary conditions of registration;
 - (e) authorising an investigation;
 - (f) deciding to take disciplinary proceedings against a registrant;
 - (g) deciding to refer a disciplinary matter, for hearing, to a professional conduct review panel or QCAT.

[s 80]

- (3) In this section—
function includes a power.

80 Insertion of new s 190A

After section 190—

insert—

190A Particular searches free of charge

- (1) This section applies to each of the following persons—
- (a) the board;
 - (b) a member;
 - (c) an employee of the board;
 - (d) an investigator;
 - (e) a person acting under the direction or authority of an investigator.
- (2) The person may conduct a search of the following without payment of a fee—
- (a) a register under the *Land Act 1994*, section 275 or the *Land Title Act 1994*, section 7;
 - (b) a valuation roll under the *Land Valuation Act 2010*;
 - (c) a State dataset under the *Survey and Mapping Infrastructure Act 2003*.
- (3) However, the search must be conducted—
- (a) for the purpose of administering this Act; and
 - (b) in accordance with the practice of the entity that holds the register, valuation roll or State dataset.
- (4) In this section—

search, of a register, valuation roll or State dataset, includes obtaining information from the register, valuation roll or State dataset.

81 Insertion of new pt 14

After part 13—

insert—

Part 14 **Transitional provision for Natural Resources and Other Legislation Amendment Act 2019**

209 Existing board members

- (1) A person who, immediately before the commencement, was a member continues to be a member until the person is taken to have vacated office under section 19.
- (2) Despite new section 12, the board is taken to be properly constituted during the transition period if it is constituted in accordance with former section 12.
- (3) In this section—

former, in relation to a provision of this Act, means as in force immediately before the commencement.

new, in relation to a provision of this Act, means as in force on the commencement.

transition period means the period starting on the commencement and ending 12 months after the commencement.

[s 82]

82 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definition *first composition*—

omit.

(2) Schedule 3—

insert—

cadastral survey—

(a) means a survey to identify a boundary of a particular area of land; but

Examples—

- a survey carried out to prepare a survey plan, that reinstates a boundary of an area of land, for lodgement in the land registry
- a survey that works out the location of a boundary of an area of land that does not have, or has incomplete, survey marks
- the placing of a mark to represent the location of a boundary of an area of land

(b) does not include the depiction on a plan of the approximate location of a boundary if the plan states the location of the boundary is approximate.

consulting cadastral surveyor means a consulting surveyor who is a cadastral surveyor.

survey includes—

(a) a survey of artificial features on, above or below the earth's surface; and

(b) recording a survey mentioned in paragraph (a) on a plan.

(3) Schedule 3, definition *investigator*, 'surveyor'—

omit, insert—

person

Part 11 Amendment of Surveyors Regulation 2014

83 Regulation amended

This part amends the *Surveyors Regulation 2014*.

84 Insertion of new s 1A

After section 1—

insert—

1A Qualifications and experience of board members—Act, s 12

- (1) This section states, for section 12(2) of the Act, the qualifications and experience particular members must have.
- (2) The board must consist of—
 - (a) 3 cadastral surveyors; and
 - (b) 1 other cadastral surveyor employed in the department; and
 - (c) 1 surveyor with a mining registration endorsement; and
 - (d) 1 surveyor directly involved in teaching surveying; and
 - (e) 1 other surveyor; and
 - (f) 2 other individuals who represent the interests of the community generally in the conduct and practice of the profession.
- (3) A surveyor may be appointed as a member only if—

omit, insert—

the Minister declares the land

88 Amendment of s 12 (Definition for div 4)

Section 12, definition *relevant land*, paragraph (b), ‘under a regulation’—

omit, insert—

by the Minister

89 Amendment of s 22 (Tidal land)

Section 22(1)—

omit, insert—

- (1) Available State land includes tidal land only if the Minister declares the particular tidal land to be available State land.

90 Amendment of s 23 (Meaning of city or town land)

Section 23(2) and (3)—

omit, insert—

- (2) The Minister may declare a change to the boundaries of a city or town.
- (3) A declaration under subsection (2) has effect only for this Act.

91 Amendment of s 28ZI (Cancellation of deeds of grant in trust, reserves etc.)

- (1) Section 28ZI(1)(a)(iv)—

omit.

- (2) Section 28ZI(1)(a)(v)—

[s 92]

renumber as section 28ZI(1)(a)(iv).

92 Amendment of s 41 (Existing interests)

Section 41(3), ‘, section 42’—

omit.

93 Omission of s 42 (Interests to be endorsed on deed)

Section 42—

omit.

94 Amendment of s 50 (Reservations of forest products and quarry material etc.)

(1) Section 50(1), ‘it is declared by regulation’—

omit, insert—

the Minister declares

(2) Section 50(2), ‘a regulation’—

omit, insert—

the Minister

(3) Section 50(3), ‘a regulation is made’—

omit, insert—

the Minister makes a declaration

95 Insertion of new s 155A

After section 155—

insert—

155A Name of land trust

The name of a land trust must include the words
‘Land Trust’ as the last 2 words.

96 Amendment of s 164 (Particular information to be recorded in register)

Section 164(2), ‘prescribed under a regulation’—
omit, insert—
declared by the Minister

97 Insertion of new s 193

After section 192—
insert—

193 Register of particular declarations

- (1) The chief executive must keep a register of declarations made by the Minister under the following sections—
 - (a) section 9(1)(c);
 - (b) section 11(1);
 - (c) section 22(1);
 - (d) section 23(2);
 - (e) section 50(1) or (2);
 - (f) section 164(2).
- (2) The register may be kept in a way the chief executive considers appropriate, including, for example, in electronic form.
- (3) The chief executive must make the information contained in the register publicly available on the department’s website free of charge.

98 Insertion of new pt 19, div 5

Part 19—
insert—

Division 5 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2019

208 Particular things taken to have been declared by Minister

- (1) This section applies if—
 - (a) immediately before the commencement, a provision of this Act (the *former provision*) required or permitted a matter to be declared by regulation; and
 - (b) on the commencement, a provision of this Act (the *current provision*) requires or permits the matter to be declared by the Minister.
- (2) A declaration of the matter by regulation under the former provision that is in effect immediately before the commencement is, on the commencement, taken to be a declaration of the matter by the Minister under the current provision.

Part 13 Amendment of Torres Strait Islander Land Regulation 2011

99 Regulation amended

This part amends the *Torres Strait Islander Land Regulation 2011*.

100 Omission of pt 4A (Declaration)

Part 4A—
omit.

**Part 14 Amendment of Valuers
Registration Act 1992**

101 Act amended

This part amends the *Valuers Registration Act 1992*.

102 Amendment of s 8 (Panel of nominees)

(1) Section 8(2)—
omit.

(2) Section 8(3)—
renumber as section 8(2).

**Chapter 3 Amendments of land
legislation commencing on
proclamation**

Part 1 Amendment of Land Act 1994

103 Act amended

This part amends the *Land Act 1994*.

[s 104]

Note—

See also the amendments in chapter 2, part 5.

104 Amendment of s 23A (Floating reservation on plan of subdivision)

(1) Section 23A(1) to (4), ‘Minister’—

omit, insert—

chief executive

(2) Section 23A(5) and (6), ‘Minister’s’—

omit, insert—

chief executive’s

105 Amendment of s 26C (Effect of resumption of forest entitlement area)

Section 26C(b), ‘Minister’—

omit, insert—

chief executive

106 Amendment of s 32 (State leases over reserves)

Section 32(4)(b), ‘Minister’—

omit, insert—

chief executive

107 Amendment of s 34H (Dealing with improvements)

(1) Section 34H(1), after ‘apply’—

insert—

, in writing to the chief executive,

(2) Section 34H(2) and (3), ‘Minister’—

omit, insert—

chief executive

108 Amendment of s 38G (Dealing with improvements)

(1) Section 38G(1), after ‘apply’—

insert—

, in writing to the chief executive,

(2) Section 38G(2) and (3), ‘Minister’—

omit, insert—

chief executive

109 Amendment of s 41 (Survey not needed)

Section 41(2), ‘Minister’—

omit, insert—

chief executive

110 Amendment of s 48 (Trustees to give information and allow inspection of records)

Section 48(1), ‘Minister’—

omit, insert—

chief executive

111 Amendment of s 55H (Dealing with improvements)

(1) Section 55H(1), after ‘apply’—

insert—

, in writing to the chief executive,

(2) Section 55H(2) and (3), ‘Minister’—

omit, insert—

[s 112]

chief executive

112 Amendment of s 57 (Trustee leases)

- (1) Section 57(2), from ‘, including’ to ‘lease’—
omit.
- (2) Section 57(5)(b)—
omit.
- (3) Section 57(5)(c) and (d)—
renumber as section 57(5)(b) and (c).

113 Amendment of s 58 (Other transactions relating to trustee leases)

- (1) Section 58(1), from ‘of’—
omit, insert—
of—
 - (a) for a sublease of the trustee lease—the Minister; or
 - (b) otherwise—the chief executive.
- (2) Section 58(2), after ‘Minister’s’—
insert—
or chief executive’s
- (3) Section 58(3)—
omit, insert—
 - (3) An approval mentioned in subsection (1) may include conditions.
- (4) Section 58(4)(a), ‘the trustee’s or Minister’s approval’—
omit, insert—
an approval mentioned in subsection (1)

(5) Section 58(6) and (7)—

omit, insert—

(6) If the Minister or chief executive refuses to approve the transfer, mortgage or sublease, notice of the decision and the reasons for the decision must be given to the trustee lessee.

(7) A trustee lessee may appeal against the decision.

114 Amendment of s 59 (Basis of Ministerial approval)

(1) Section 59, heading, ‘Ministerial’—

omit.

(2) Section 59(1), after ‘Minister’—

insert—

or the chief executive

(3) Section 59(2)(b), ‘Minister’—

omit, insert—

chief executive

115 Amendment of s 60 (Trustee permits)

Section 60(5) and (6)—

omit.

116 Amendment of s 61 (Conditions on trustee leases and trustee permits)

Section 61(4)—

insert—

Note—

See also chapter 5A for prescribed terms that apply to particular trustee leases or trustee permits.

[s 117]

117 Amendment of s 64 (Minister may dispense with approval)

(1) Section 64(1), after ‘Minister’s’—

insert—

or chief executive’s

(2) Section 64(5) and (6)—

omit.

(3) Section 64(7)—

renumber as section 64(5).

118 Amendment of s 66 (Right to remove improvements on cancellation)

Section 66(2), from ‘Minister may’—

omit, insert—

chief executive may allow the trustee lessee or trustee permittee to remove the trustee lessee’s or trustee permittee’s improvements on the land within a reasonable time stated by the chief executive.

119 Amendment of s 67 (Power to mortgage trust land)

(1) Section 67(4), ‘Minister’—

omit, insert—

chief executive

(2) Section 67(5), ‘Minister’s’—

omit, insert—

chief executive’s

120 Amendment of s 68 (Mortgagee in possession)

- (1) Section 68(1) and (3), ‘Minister’—

omit, insert—

chief executive

- (2) Section 68(3), ‘Minister’s’—

omit, insert—

chief executive’s

121 Amendment of s 82 (Trustees may transfer trust to local government)

Section 82(a), ‘Minister’—

omit, insert—

chief executive

122 Amendment of s 98 (Closure of road)

- (1) Section 98(1)(b), ‘gazette notice.’—

omit, insert—

issuing, under section 103, a road licence over the road to a person.

- (2) Section 98(3), from ‘gazette’—

omit, insert—

road licence mentioned in subsection (1)(b) is issued.

123 Amendment of ch 3, pt 2, div 3, hdg (Road licences for temporarily closed roads)

Chapter 3, part 2, division 3, heading, ‘for temporarily closed roads’—

omit.

[s 124]

124 Amendment of s 103 (Issue of road licence)

(1) Section 103(1), ‘temporarily closed’—

omit.

(2) Section 103(1)—

insert—

Note—

See also section 98.

125 Amendment of s 104 (Conditions of issuing road licence)

Section 104(b), ‘temporarily closed’—

omit, insert—

for which the licence is issued

126 Amendment of s 105 (Cancellation or surrender of road licence)

Section 105(6), ‘remains temporarily closed’—

omit, insert—

is reopened

127 Omission of s 107 (Reopening a temporarily closed road)

Section 107—

omit.

128 Amendment of s 113 (Public notice of availability to be given)

Section 113(1), ‘Minister’—

omit, insert—

chief executive

129 Amendment of s 117 (Interest may be withdrawn from auction, tender or ballot)

Section 117, ‘Minister’—

omit, insert—

chief executive

130 Amendment of s 118 (Appeal against exclusion from ballot or tender)

Section 118(1) and (2), ‘Minister’—

omit, insert—

chief executive

131 Amendment of s 120 (Offer to winner of ballot or tender)

(1) Section 120(2)(b)—

omit, insert—

(b) either—

(i) if the offer was made because of a ballot—the chief executive may reballot the land; or

(ii) otherwise—the Minister or chief executive may deal with the land in a way required or permitted under this Act.

(2) Section 120(4), ‘Minister’—

omit, insert—

chief executive

132 Amendment of s 137 (Right to occupy)

Section 137(1)(b) and (2)(a), ‘Minister’—

[s 133]

omit, insert—

chief executive

133 Amendment of s 138 (Default)

Section 138(3), ‘Minister’—

omit, insert—

chief executive

134 Amendment of s 201 (Information condition)

Section 201, after ‘Minister’—

insert—

or the chief executive

135 Amendment of s 202 (Improvement condition)

Section 202, ‘Minister’s’—

omit, insert—

chief executive’s

136 Amendment of s 240E (Sale by lessee)

(1) Section 240E(1), ‘make written application’—

omit, insert—

apply, in writing, to the chief executive

(2) Section 240E(2), ‘Minister’—

omit, insert—

chief executive

(3) Section 240E(2), ‘Minister’s’—

omit, insert—

chief executive's

137 Amendment of s 240F (Sale by mortgagee instead of forfeiture)

(1) Section 240F(1), 'make written application'—

omit, insert—

apply, in writing, to the chief executive

(2) Section 240F(2), 'Minister'—

omit, insert—

chief executive

(3) Section 240F(2), 'Minister's'—

omit, insert—

chief executive's

138 Amendment of s 240G (Application)

(1) Section 240G(1) and (3), 'Minister'—

omit, insert—

chief executive

(2) Section 240G(3), 'Minister's'—

omit, insert—

chief executive's

139 Amendment of s 240H (Notice of approval)

Section 240H(1), 'Minister'—

omit, insert—

chief executive

[s 140]

140 Amendment of s 240M (Transition to sale agreement)

(1) Section 240M(2)(a) and (b), after ‘Minister’—

insert—

or chief executive

(2) Section 240M(2)(c), after ‘Minister’s’—

insert—

or chief executive’s

141 Amendment of s 240O (Making and registration of transition to sale agreement)

Section 240O(1), from ‘agreement, including’—

omit, insert—

agreement.

142 Amendment of s 240S (Notice of forfeiture)

Section 240S(1), ‘Minister’—

omit, insert—

chief executive

143 Amendment of s 243 (Improvements on forfeited lease)

(1) Section 243(1A), after ‘apply’—

insert—

, in writing to the chief executive,

(2) Section 243(1) and (2), ‘Minister’—

omit, insert—

chief executive

144 Insertion of new ch 5A

After chapter 5—

insert—

Chapter 5A Prescribed terms of particular interests

254 Definitions for chapter

In this chapter—

prescribed term, for a relevant interest, means a term that is prescribed under section 255 for interests of that type.

relevant interest means an interest in lease land, licence land, permit land or trust land created under this Act.

255 Regulation may prescribe terms

A regulation may prescribe a term to be a term of a type of relevant interest stated in the regulation.

256 Effect of prescribed term

- (1) This section applies to a relevant interest if it is of a type for which there is a prescribed term.
- (2) The relevant interest is subject to the prescribed term from—
 - (a) for a relevant interest that is required to be registered under this Act—
 - (i) if the interest was registered before the commencement of the prescribed term—the expiry of the transition period for the prescribed term; or

[s 144]

- (ii) otherwise—the registration of the interest; or
- (b) for another relevant interest—
 - (i) if the interest was created before the commencement of the prescribed term—the expiry of the transition period for the prescribed term; or
 - (ii) otherwise—the creation of the interest.
- (3) The prescribed term binds each person who holds the relevant interest and each successor in title of the person.
- (4) If a term of a tenure document for the relevant interest, or another document creating the relevant interest, is inconsistent with the prescribed term, the prescribed term prevails to the extent of the inconsistency.
- (5) This section applies despite any other provision of this Act, other than section 257.
- (6) In this section—
transition period, for a prescribed term, means a period, prescribed by regulation, starting on the commencement of the prescribed term.

257 Amendment of prescribed term

- (1) This section applies to a relevant interest that is subject to a prescribed term if the prescribed term is amended.
- (2) The relevant interest is subject to the prescribed term as amended (the *amended prescribed term*) from the expiry of the transition period for the amended prescribed term.
- (3) This section applies despite any other provision of this Act.

(4) In this section—

transition period, for an amended prescribed term, means a period, prescribed by regulation, starting on the commencement of the amended prescribed term.

145 Amendment of s 287 (Registered documents must comply with particular requirements)

Section 287(1)(c)—

omit, insert—

(c) if the Minister's or chief executive's approval is needed—the Minister or chief executive has given written approval to the transaction to which the document relates.

146 Amendment of s 294J (Building management statement affecting freehold and non-freehold land)

Section 294J(3), (4) and (6)(a), 'Minister'—

omit, insert—

chief executive

147 Amendment of s 299A (No registration in absence of required approval or consent of Minister)

(1) Section 299A, heading, after 'Minister'—

insert—

or chief executive

(2) Section 299A(1)(a) and (b)—

omit, insert—

(a) under this Act, the Minister's or chief executive's approval or consent, however described, is required for the document,

[s 148]

including any aspect of the document, but the approval or consent has not been obtained; or

Examples—

- a plan of subdivision that has not been consented to by the Minister
 - a transfer document if the chief executive has not given written approval to the transfer
- (b) the terms of the document are inconsistent with the terms of any approval or consent, however described, given by the Minister or chief executive in relation to the document, including any aspect of the document.

(3) Section 299A(4)—

omit, insert—

- (4) Subsection (1) does not affect the operation of a provision of this Act that provides for the approval or consent to be dispensed with.

Examples—

- 1 The Minister may, under section 333, give an authority to sublease without seeking the Minister's approval.
- 2 The chief executive may, under section 322AA, exempt particular persons from the requirement, under section 322(1)(b)(i), to obtain the chief executive's approval to a transfer of a lease.

148 Replacement of s 311 (Witnessing documents for individuals)

Section 311—

omit, insert—

311 Witnessing documents for individuals

- (1) A person who witnesses a document signed by an individual must—

- (a) first take reasonable steps to verify the identity of the individual and ensure the individual is the person entitled to sign the document; and
 - (b) have the individual sign the document in the presence of the person; and
 - (c) not be a party to the document.
- (2) Without limiting subsection (1)(a), the person takes reasonable steps to verify the identity of the individual if the person complies with practices included in the manual of land title practice under section 286A(2) for verifying the individual's identity.
- (3) The person must, for 7 years after the person witnesses the signing of the document—
- (a) keep a written record of the steps taken under subsection (1)(a); or
 - (b) keep originals or copies of the documents and other evidence provided to or otherwise obtained by the person in complying with subsection (1)(a).
- (4) The chief executive may, whether before or after the registration of the document, ask the person—
- (a) to advise the chief executive about the steps taken by the person under subsection (1)(a); and
 - (b) to produce for the chief executive's inspection the written record mentioned in subsection (3)(a) or the originals or copies mentioned in subsection (3)(b).
- (5) The person must comply with a request under subsection (4) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

[s 149]

149 Omission of s 318A (Minister may lodge mandatory standard terms document)

Section 318A—

omit.

150 Omission of s 320A (Conflict with mandatory standard terms document)

Section 320A—

omit.

151 Amendment of s 322 (Requirements for transfers)

(1) Section 322(1)(b)(i), (5), (6) and (7), ‘Minister’—

omit, insert—

chief executive

(2) Section 322—

insert—

(2A) If an exemption applies to a lease under section 322AA, subsection (1)(b)(i) does not apply to the transfer of—

(a) the lease; or

(b) a sublease of the lease.

(3) Section 322(4), (6), (8) and (9), ‘Minister’s’—

omit, insert—

chief executive’s

152 Insertion of new ss 322AA and 322AB

After section 322—

insert—

322AA Chief executive may grant exemption from approval requirement

- (1) If the chief executive considers it appropriate, the chief executive may, by written notice, exempt the following persons from the requirement under section 322(1)(b)(i) to obtain the chief executive's approval to a transfer of a lease—
 - (a) if the notice states a particular lease—the lessee under the lease;
 - (b) if the notice states a type of lease—each lessee under a lease of that type.
- (2) If an exemption under subsection (1) applies to a lessee for a lease, a sublessee for a sublease under the lease is exempt from the requirement under section 322(1)(b)(i) to obtain the chief executive's approval to a transfer of the sublease.
- (3) In acting under the notice, a lessee or sublessee must comply with any requirements prescribed by regulation.
- (4) The notice may impose conditions on the exemption the chief executive considers appropriate.
- (5) The chief executive may, by further written notice—
 - (a) impose additional conditions on the exemption; or
 - (b) amend or revoke a condition already imposed on the exemption under this section; or
 - (c) revoke the exemption.

322AB Recording exemptions

- (1) The chief executive may record an exemption

[s 153]

granted under section 322AA(1) in the leasehold land register.

- (2) Failure to record the exemption does not affect its validity.
- (3) If an exemption recorded under subsection (1) is revoked under section 322AA(5)(c), the chief executive must remove the record of the exemption from the leasehold land register.

153 Amendment of s 326A (Disclosure of information to proposed transferee of lease or licensee)

Section 326A(2) and (3), 'Minister'—

omit, insert—

chief executive

154 Amendment of s 327 (Absolute surrender of freehold land)

- (1) Section 327(a), 'Minister'—

omit, insert—

chief executive

- (2) Section 327(b), 'Minister's'—

omit, insert—

chief executive's

155 Amendment of s 327A (Surrender of lease)

- (1) Section 327A(a), 'Minister'—

omit, insert—

chief executive

- (2) Section 327A(b), 'Minister's'—

omit, insert—

chief executive's

156 Amendment of s 327B (Applying to surrender freehold land)

Section 327B, after 'apply'—

insert—

, in writing to the chief executive,

157 Amendment of s 327C (Applying to surrender lease)

Section 327C(1), after 'apply'—

insert—

, in writing to the chief executive,

158 Amendment of s 327I (Dealing with improvements)

(1) Section 327I(1), after 'apply'—

insert—

, in writing to the chief executive,

(2) Section 327I(2) and (3), 'Minister'—

omit, insert—

chief executive

159 Amendment of s 329 (Notice of surrender needed)

Section 329(2), 'Minister'—

omit, insert—

chief executive

[s 160]

160 Amendment of s 330 (Requirements for effective surrender)

Section 330(a), ‘Minister’—

omit, insert—

chief executive

161 Amendment of s 332 (Requirements for subleases)

(1) Section 332(1)(a)(iii)—

omit.

(2) Section 332(1)—

insert—

Note—

A sublease may be subject to a prescribed term. See chapter 5A.

(3) Section 332(2) to (9)—

omit, insert—

(2) An application for the Minister’s approval—

(a) may be made by a lessee or sublessee even though subsection (1)(a)(ii) applies to the lessee; and

(b) must be accompanied by a copy of the proposed sublease.

(3) The Minister must consider the application and—

(a) if the Minister is satisfied the subleasing would be inconsistent with the purpose of the lease—must refuse to approve the application; or

(b) otherwise—may—

(i) approve the application, with or without conditions; or

- (ii) refuse to approve the application.

Example of why the Minister may refuse to approve the application—

The subleasing would be inappropriate having regard to the purpose and conditions of the lease.

- (4) If the Minister refuses to approve the application, the Minister must give the lessee a written notice of the decision that includes a statement of the reasons for the decision.
- (5) The approval lapses unless the sublease is lodged in the land registry within 6 months after the approval was granted.
- (6) The Minister may extend the time mentioned in subsection (5).
- (7) The lessee may appeal against the Minister's decision.

162 Insertion of new s 337A

After section 337—

insert—

337A Sublease must not contravene lease condition

The lessee of a lease that is sublet, in whole or in part, must ensure the terms of the sublease do not contravene a condition to which the lease is subject.

163 Amendment of s 358 (Changing deeds of grant—change in description or boundary of land)

Section 358(2), 'Minister's'—

omit, insert—

chief executive's

[s 164]

164 Amendment of s 360A (Minister may change term leases, other than State leases, or perpetual leases)

(1) Section 360A, heading—

omit, insert—

360A Chief executive may change term leases, or perpetual leases, other than State leases

(2) Section 360A(1), from ‘applies’—

omit, insert—

does not apply to a State lease.

(3) Section 360A(2) and (3), ‘Minister’—

omit, insert—

chief executive

(4) Section 360A(2) and (3), ‘the lease if’—

omit, insert—

a term lease, or a perpetual lease, if

165 Amendment of s 360C (Applying to amend description of lease)

Section 360C(2), ‘other than a State lease, or a perpetual lease’—

omit, insert—

or a perpetual lease, other than a State lease

166 Amendment of s 362 (Easements may be created only by registration)

Section 362(1), ‘Minister’s’—

omit, insert—

chief executive’s

167 Amendment of s 363 (Registration of easement)

Section 363(1)(c), ‘Minister’—

omit, insert—

chief executive

168 Amendment of s 369A (Transfer of public utility easements)

Section 369A(1), ‘With the Minister’s written approval, a’—

omit, insert—

A

169 Amendment of s 373B (Requirements of document creating covenant)

Section 373B(1)(d), ‘Minister’—

omit, insert—

chief executive

170 Amendment of s 373C (Amending document creating covenant)

Section 373C(2)(b), ‘Minister’—

omit, insert—

chief executive

171 Amendment of s 373G (Profit a prendre by registration)

Section 373G, ‘Minister’s’—

omit, insert—

chief executive’s

[s 172]

172 Amendment of s 373ZB (Definitions for div 8D)

Section 373ZB, definition *approved agreement*, ‘Minister’—
omit, insert—
chief executive

173 Amendment of s 373ZD (Creation only by registration)

- (1) Section 373ZD(2) and (3), ‘Minister’—
omit, insert—
chief executive
- (2) Section 373ZD(4), ‘Minister’s’—
omit, insert—
chief executive’s

174 Amendment of s 373ZE (Requirements for registration)

Section 373ZE(1)(c), from ‘Minister’s’—
omit, insert—
approval under section 373ZD.

175 Amendment of s 373ZF (Amending interest)

- (1) Section 373ZF(3) and (4), ‘Minister’—
omit, insert—
chief executive
- (2) Section 373ZF(5), ‘Minister’s’—
omit, insert—
chief executive’s

176 Amendment of s 373ZG (When amendment or replacement of approved agreement ends interest)

- (1) Section 373ZG(1), from ‘Minister’—
omit, insert—
approval mentioned in section 373ZF is refused.
- (2) Section 373ZG(2), from ‘the chief executive becomes’—
omit, insert—
practicable.

177 Amendment of s 373ZH (Surrendering or removing interest)

- (1) Section 373ZH(2)—
omit.
- (2) Section 373ZH(3) and (4)—
renumber as section 373ZH(2) and (3).

178 Amendment of s 373ZI (Notice of end of approved agreement)

- Section 373ZI(2) and (3), ‘Minister’—
omit, insert—
chief executive

179 Amendment of s 373ZL (Reviewing approved agreements for indigenous cultural interests)

- Section 373ZL, ‘Minister’—
omit, insert—
chief executive

[s 180]

180 Amendment of s 375A (Document to vest in trustee)

Section 375A(4), ‘registrar’—

omit, insert—

chief executive

181 Amendment of s 390A (Special provision for transport related land)

Section 390A(2), after ‘Minister’s’—

insert—

or the chief executive’s

182 Amendment of s 391A (General provision about approvals)

(1) Section 391A(2), after ‘Minister’s’—

insert—

or the chief executive’s

(2) Section 391A(2) and (4), after ‘Minister’—

insert—

or the chief executive

183 Amendment of s 420FA (Regard may be had to information and advice)

Section 420FA, example, ‘23A or’—

omit.

184 Amendment of s 420I (General power to impose conditions)

Section 420I, example, ‘Minister’—

omit, insert—

chief executive

185 Insertion of new s 533

After section 532, as inserted by this Act—

insert—

533 Roads temporarily closed by gazette notice

- (1) This section applies in relation to a road that, immediately before the commencement, had been temporarily closed under former section 98(1)(b) and had not been reopened under former section 107.
- (2) The Minister may, by gazette notice, reopen the road.

186 Insertion of new ch 9, pt 4, divs 4–6

Chapter 9, part 4, as inserted by this Act—

insert—

Division 4 Provisions relating to prescribed terms and mandatory standard terms documents

534 Definition for division

In this division—

mandatory standard terms document means a mandatory standard terms document under this Act as in force before the commencement.

535 Application of mandatory standard terms document

- (1) This section applies if, under section 319, a mandatory standard terms document formed part of a document immediately before the commencement.
- (2) The document is not affected by the repeal of former section 318A.
- (3) Subject to subsection (4), the mandatory standard terms document continues to form part of the document unless, and until, the interest in land to which the document relates becomes subject to a prescribed term.

Note—

A relevant interest may be subject to a prescribed term.
See chapter 5A.

- (4) If there is a conflict between the document, or another document, and the mandatory standard terms document, the mandatory standard terms document prevails.
- (5) Subsection (4) applies despite section 320(2).

536 Requirements for mandatory standard terms document

- (1) This section applies to an approval mentioned in section 57(1), 58(1) or 332(1)(a)(i), or an authority mentioned in section 64(1) or 333(1), if—
 - (a) immediately before the commencement, the approval or authority included a condition, or other requirement, that a mandatory standard terms document must form part of an interest in land; and

- (b) the interest in land to which the approval or authority relates becomes subject to a prescribed term.
- (2) The approval or authority is no longer subject to the condition or requirement.

Division 5 Provisions about functions of Minister and chief executive

537 Particular applications taken to have been made to the chief executive

- (1) This section applies if—
 - (a) immediately before the commencement, a provision of this Act required or permitted an application to be made to the Minister; and

Examples—

 - former section 23A, 34H or 38G
 - (b) on the commencement—
 - (i) the provision requires or permits the application to be made to the chief executive; and
 - (ii) the application has not been decided.
- (2) The application is taken to have been made to the chief executive.

538 Particular things taken to have been done by chief executive

- (1) This section applies in relation to a function of the chief executive under this Act if, before the commencement, the function was a function of

[s 187]

the Minister.

Examples—

former section 48, 240E, 240F, 240G or 243

- (2) From the commencement, any performance or exercise of the function by the Minister before the commencement is taken to be a performance or exercise of the function by the chief executive to the extent the context permits.
- (3) In this section—
function includes a power.

Division 6 Other provision

539 Application of new s 311

New section 311 applies in relation to a document only if the document is executed after the commencement.

187 Amendment of sch 2 (Original decisions)

Schedule 2, '332(7)'—

omit, insert—

332(4)

188 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *mandatory standard terms document*—
omit.
- (2) Schedule 6—
insert—

perpetual lease means a lease granted in

perpetuity.

prescribed term see section 254.

relevant interest see section 254.

Part 2 **Amendment of Land Title Act 1994**

189 Act amended

This part amends the *Land Title Act 1994*.

Note—

See also the amendments in chapter 2, part 8.

190 Replacement of s 162 (Obligations of witness for individual)

Section 162—

omit, insert—

162 Obligations of witness for individual

- (1) A person who witnesses an instrument executed by an individual must—
 - (a) first take reasonable steps to verify the identity of the individual and ensure the individual is the person entitled to sign the instrument; and
 - (b) have the individual execute the instrument in the presence of the person; and
 - (c) not be a party to the instrument.
- (2) Without limiting subsection (1)(a), the person takes reasonable steps to verify the identity of the individual if the person complies with practices included in the manual of land title practice under

[s 191]

section 9A(2) for verifying the individual's identity.

- (3) The person must, for 7 years after the person witnesses the signing of the instrument—
 - (a) keep a written record of the steps taken under subsection (1)(a); or
 - (b) keep originals or copies of the documents and other evidence provided to or otherwise obtained by the person in complying with subsection (1)(a).
- (4) The registrar may, whether before or after the registration of the instrument, ask the person—
 - (a) to advise the registrar about the steps taken by the person under subsection (1)(a); and
 - (b) to produce for the registrar's inspection the written record mentioned in subsection (3)(a) or the originals or copies mentioned in subsection (3)(b).
- (5) The person must comply with a request under subsection (4) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

191 Insertion of new s 219

After section 218, as inserted by this Act—

insert—

219 Application of new s 162

Section 162, as in force on the commencement, applies in relation to an instrument only if it is executed after the commencement.

Part 3 Amendment of Land Title Regulation 2015

192 Regulation amended

This part amends the *Land Title Regulation 2015*.

193 Amendment of s 3 (Definitions)

Section 3, ‘schedule 3’—

omit, insert—

schedule 2

194 Amendment of s 4 (Lodging instruments)

(1) Section 4(1) and (2)—

omit, insert—

(1) A document in paper form may be lodged at an office of the land registry, stated on the department’s website, during the hours stated on the website for the office.

(2) Section 4(3)—

renumber as section 4(2).

195 Amendment of s 6 (Fees)

Section 6(1), ‘schedule 2’—

omit, insert—

schedule 1

196 Omission of sch 1 (Offices of the land registry)

Schedule 1—

[s 197]

omit.

197 Renumbering of schs 2 and 3

Schedules 2 and 3—

renumber as schedules 1 and 2.

**Chapter 4 Amendments of resources
legislation commencing on
assent**

**Part 1 Amendment of Geothermal
Energy Act 2010**

198 Act amended

This part amends the *Geothermal Energy Act 2010*.

199 Insertion of new ch 9, pt 5

Chapter 9—

insert—

**Part 5 Transitional provision
for Natural Resources
and Other Legislation
Amendment Act 2019**

413 Existing conduct and compensation agreements

- (1) This section applies if a conduct and compensation agreement relating to a resource authority under this Act—
 - (a) was in effect immediately before the commencement; and
 - (b) applied in relation to an authorised activity that was an advanced activity, or preliminary activity, under the repealed provisions.
- (2) For any matter relating to the conduct and compensation agreement—
 - (a) if the authorised activity was an advanced activity under the repealed provisions—the authorised activity is taken to be an advanced activity under the *Mineral and Energy Resources (Common Provisions) Act 2014*; and
 - (b) if the authorised activity was a preliminary activity under the repealed provisions—the authorised activity is taken to be a preliminary activity under the *Mineral and Energy Resources (Common Provisions) Act 2014*; and
 - (c) the new provisions do not apply.
- (3) In this section—

new provisions means the *Mineral and Energy Resources (Common Provisions) Act 2014*, sections 15A and 15B.

repealed provisions means schedule 2, definitions *advanced activity* and *preliminary activity* as in force immediately before the commencement.

[s 200]

200 Amendment of sch 2 (Dictionary)

Schedule 2, definitions *advanced activity* and *preliminary activity*—
omit.

Part 2 Amendment of Greenhouse Gas Storage Act 2009

201 Act amended

This part amends the *Greenhouse Gas Storage Act 2009*.

202 Amendment of s 390 (Restriction on building on pipeline land for GHG tenure)

Section 390(1)—

omit, insert—

- (1) This section applies if land is pipeline land for 1 or more GHG tenures.

203 Amendment of sch 2 (Dictionary)

Schedule 2, definitions *advanced activity* and *preliminary activity*—
omit.

Part 3 Amendment of Land Access Ombudsman Act 2017

204 Act amended

This part amends the *Land Access Ombudsman Act 2017*.

205 Amendment of s 7 (What is a *land access dispute*)

(1) Section 7(a)(ii), ‘section 79’—

omit, insert—

chapter 3, part 7, division 5

(2) Section 7(b)(ii), ‘section 422’—

omit, insert—

section 422, 437 or 437A

Part 4 Amendment of Mineral and Energy Resources (Common Provisions) Act 2014

206 Act amended

This part amends the *Mineral and Energy Resources (Common Provisions) Act 2014*.

207 Insertion of new ss 15A and 15B

After section 15—

insert—

15A What is an *advanced activity*

An *advanced activity*, for a resource authority, is an authorised activity for the resource authority other than a preliminary activity for the resource authority.

Examples—

- levelling of drilling pads and digging sumps
- earthworks associated with pipeline installation
- bulk sampling
- open trenching or costeaning with an excavator

[s 207]

- vegetation clear-felling
- constructing an exploration camp, concrete pad, sewage or water treatment facility or fuel dump
- geophysical surveying with physical clearing
- carrying out a seismic survey using explosives
- constructing a track or access road
- changing a fence line

15B What is a *preliminary activity*

- (1) A *preliminary activity*, for a resource authority, is an authorised activity for the authority that will have no impact, or only a minor impact, on the business or land use activities of any owner or occupier of the land on which the activity is to be carried out.

Examples—

- walking the area of the authority
 - driving along an existing road or track in the area
 - taking soil or water samples
 - geophysical surveying not involving site preparation
 - aerial, electrical or environmental surveying
 - survey pegging
- (2) However, the following are not preliminary activities—
- (a) an authorised activity carried out on land that—
- (i) is less than 100ha; and
 - (ii) is being used for intensive farming or broadacre agriculture;

Examples—

- land used for dryland or irrigated cropping, plantation forestry or horticulture

[s 210]

- (b) under the Mineral Resources Act, the holder of a prospecting permit, mining claim or mining lease has the right to enter land to carry out authorised activities for the resource authority.
- (2) The right includes a right to enter the land to carry out rehabilitation or environmental management required of the holder under any relevant environmental requirement under the Environmental Protection Act.

210 Amendment of s 99A (Jurisdiction to decide alleged breach of conduct and compensation agreement)

Section 99A(5), definition *party*, paragraph (b), ‘section 79’—

omit, insert—

division 5

211 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *advanced activity* and *preliminary activity*—

omit.

- (2) Schedule 2—

insert—

advanced activity, for a resource authority, see section 15A.

preliminary activity, for a resource authority, see section 15B.

Part 5 Amendment of Mineral and Energy Resources (Financial Provisioning) Act 2018

212 Act amended

This part amends the *Mineral and Energy Resources (Financial Provisioning) Act 2018*.

213 Amendment of s 3 (Main purposes)

Section 3(d)(i), ‘rehabilitation’—
omit, insert—
 remediation

214 Amendment of s 63 (Application of subdivision)

Section 63(b), from ‘section 344A’ to ‘rehabilitation’—
omit, insert—
 section 344A(1), to carry out remediation

215 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *rehabilitation activities* and *remediation activities*—
omit.
- (2) Schedule 1—
insert—
remediation activities—
 - (a) at land on which an abandoned mine exists—see the *Mineral Resources Act 1989*, section 344A(1); or

[s 216]

- (b) in relation to an abandoned operating plant—see the *Petroleum and Gas (Production and Safety) Act 2004*, section 799D.

Part 6 Amendment of Mineral Resources Act 1989

216 Act amended

This part amends the *Mineral Resources Act 1989*.

Note—

See also the amendments in chapter 5, part 1.

217 Omission of ss 7A and 7B

Sections 7A and 7B—

omit.

218 Omission of s 23 (Refund upon rejection of application)

Section 23—

omit.

219 Replacement of s 85A (Deciding whether to grant mining claim if compensation not determined)

Section 85A—

omit, insert—

85A Minister may refuse to grant mining claim if compensation not determined

- (1) This section applies if—
- (a) a person makes an application for the grant of a mining claim; and

- (b) compensation in relation to the mining claim has not been determined by agreement between the applicant and each owner of land, or by determination of the Land Court, as mentioned in section 85(1)(a); and
 - (c) an application under section 85(4) has not been made to the Land Court for a determination of the amount of compensation in relation to the mining claim; and
 - (d) 3 months have elapsed since—
 - (i) if no objection was lodged in relation to the application for the grant of the mining claim—the last objection day for the application; or
 - (ii) if, under section 72(5), the Land Court remitted a matter relating to the mining claim to the chief executive—the day the Land Court remitted the matter; or
 - (iii) if, under section 78(1)(b), the Land Court instructed the Minister to grant the mining claim—the day the Land Court gave the instruction; or
 - (iv) if the Governor in Council consented to the grant of the mining claim—the day the Governor in Council consented to the grant.
- (2) The Minister may refuse to grant the mining claim.
- (3) This section does not limit any other power to refuse to grant a mining claim.

[s 220]

220 Amendment of s 135 (Abandonment of application for exploration permit)

- (1) Section 135(3)—
omit.
- (2) Section 135(2A)—
renumber as section 135(3).

221 Amendment of s 136 (Grant of exploration permit on application)

Section 136(5)—
omit.

222 Amendment of s 136N (Grant of exploration permit for surrendered exploration permits)

Section 136N(5)—
omit.

223 Amendment of s 136S (Deciding application)

Section 136S(8)—
omit, insert—

- (8) If the Minister refuses the application, the Minister must give the applicant written notice of the reasons for the refusal.

224 Amendment of s 136T (Withdrawing application)

Section 136T(4)—
omit.

225 Amendment of s 186 (Minister may grant or refuse application)

Section 186(8)—

omit.

226 Omission of s 188 (Upon rejection of application, application fee or part may be retained)

Section 188—

omit.

227 Amendment of s 189 (Abandonment of application for mineral development licence)

(1) Section 189(3)—

omit.

(2) Section 189(2A) to (4)—

renumber as section 189(3) to (5).

228 Amendment of s 231A (Application of pts 1 and 2)

Section 231A(3), '188,'—

omit.

229 Replacement of s 279A (Deciding whether to grant mining lease if compensation not determined)

Section 279A—

omit, insert—

279A Minister may refuse to grant mining lease if compensation not determined

(1) This section applies if—

(a) a person makes an application for the grant of a mining lease; and

[s 229]

- (b) compensation in relation to the mining lease has not been determined by agreement between the applicant and each owner of land, or by determination of the Land Court, as mentioned in section 279(1)(a); and
 - (c) an application under section 281 has not been made to the Land Court for a determination of the amount of compensation in relation to the mining lease; and
 - (d) 3 months have elapsed since—
 - (i) if no objection was lodged in relation to the application for the grant of the mining lease—the last objection day for the application; or
 - (ii) if, under section 265(10), the Land Court remitted a matter relating to the mining lease to the chief executive—the day the Land Court remitted the matter; or
 - (iii) if, under section 269, the Land Court made a recommendation about the grant of the mining lease—the day the Land Court made the recommendation; or
 - (iv) if the Governor in Council consented to the grant of the mining lease for land relating to a reserve—the day the Governor in Council consented to the grant.
- (2) The Minister may refuse to grant the mining lease.
- (3) This section does not limit any other power to refuse to grant a mining lease.

230 Amendment of s 334J (Access rights for particular activities)

Section 334J(1)(a), ‘section 55’—

omit, insert—

section 72B

231 Amendment of s 344 (Definitions for part)

(1) Section 344—

insert—

remediation activities see section 344A(1).

(2) Section 344, definition *rehabilitation activities*, ‘section 344A(1) and (3)’—

omit, insert—

section 344A(3)

232 Amendment of s 344A (Authorised person to carry out rehabilitation activities)

(1) Section 344A, heading, ‘rehabilitation activities’—

omit, insert—

**remediation activities for abandoned mine or
rehabilitation activities for final rehabilitation
site**

(2) Section 344A(1), ‘(*rehabilitation activities*)’—

omit, insert—

(*remediation activities*)

(3) Section 344A(3), ‘also’—

omit.

[s 233]

233 Amendment of s 344B (Entering land to carry out rehabilitation activities)

- (1) Section 344B, heading, ‘rehabilitation activities’—
omit, insert—

**remediation activities for abandoned mine or
rehabilitation activities for final rehabilitation
site**

- (2) Section 344B(2), ‘carry out rehabilitation activities’—
omit, insert—

carry out remediation activities for the abandoned
mine, or rehabilitation activities for the final
rehabilitation site

- (3) Section 344B(2)(a), ‘rehabilitation activities’—
omit, insert—

the activities

234 Amendment of s 344C (Notice of entry)

- (1) Section 344C(1)(a), ‘rehabilitation activities’—
omit, insert—

remediation activities for the abandoned mine, or
rehabilitation activities for the final rehabilitation
site,

- (2) Section 344C(2)(d), ‘rehabilitation’—
omit, insert—

remediation activities or rehabilitation

235 Amendment of s 344D (Obligation of authorised person in carrying out rehabilitation activities)

Section 344D, heading, ‘rehabilitation activities’—
omit, insert—

**remediation activities for abandoned mine or
rehabilitation activities for final rehabilitation
site**

236 Insertion of new s 386PA

After section 386P—

insert—

**386PA Chief executive's power to refund
application fee**

- (1) This section applies if, under this Act, an application for a resource authority is withdrawn, abandoned, refused or rejected.
- (2) The chief executive may refund all or part of the application fee.
- (3) In this section—
resource authority does not include a water monitoring authority.

237 Insertion of new ch 15, pt 15

Chapter 15—

insert—

**Part 15 Transitional provisions
for Natural Resources
and Other Legislation
Amendment Act 2019**

**846 Power of Minister to refuse application for
mining claim if compensation not determined**

- (1) This section applies in relation to an application for a mining claim made before the

[s 237]

commencement but after 24 October 2018.

- (2) Section 85A applies in relation to the application.
- (3) For subsection (2), it does not matter if a day mentioned in section 85A(1)(d) is before the commencement.

847 Power of Minister to refuse application for mining lease if compensation not determined

- (1) This section applies in relation to an application for a mining lease made before the commencement but after 24 October 2018.
- (2) Section 279A applies in relation to the application.
- (3) For subsection (2), it does not matter if a day mentioned in section 279A(1)(d) is before the commencement.

848 Chief executive's power to refund application fee

- (1) This section applies in relation to an application for a resource authority made, but not decided, before the commencement.
- (2) Section 386PA does not apply in relation to the application.
- (3) The Act as in force before the commencement continues to apply in relation to the refund of all or part of any fee paid for the application.
- (4) In this section—
resource authority does not include a water monitoring authority.

238 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *advanced activity* and *preliminary activity*—

omit.

(2) Schedule 2—

insert—

remediation activities, for chapter 13, part 4, see section 344A(1).

Part 7 Amendment of Petroleum Act 1923

239 Act amended

This part amends the *Petroleum Act 1923*.

240 Amendment of s 2 (Definitions)

Section 2, definitions *advanced activity* and *preliminary activity*—

omit.

Part 8 Amendment of Petroleum and Gas (Production and Safety) Act 2004

241 Act amended

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

Note—

See also the amendments in chapter 5, part 2.

[s 242]

242 Amendment of sch 2 (Dictionary)

Schedule 2, definitions *advanced activity* and *preliminary activity*—

omit.

Chapter 5 Amendments of resources legislation commencing on proclamation

Part 1 Amendment of Mineral Resources Act 1989

243 Act amended

This part amends the *Mineral Resources Act 1989*.

Note—

See also the amendments in chapter 4, part 6.

244 Amendment of s 3 (Application of Act to Commonwealth land and coastal waters of the State)

Section 3(3), from ‘subsoil that’—

omit, insert—

subsoil that by a law of the Commonwealth is excluded from the application of this Act (whether by reference to this Act or to the subject matter of this Act) to the extent of that exclusion.

245 Insertion of new s 3BB

After section 3BA—

insert—

3BB Relationship with Nature Conservation Act 1992

This Act is subject to the *Nature Conservation Act 1992*, sections 27 and 70QA.

246 Amendment of s 127 (Land subject to exploration permit)

Section 127(3), from ‘contained’ to ‘proposed in the application’—

omit, insert—

provided for the application for an exploration permit, is satisfied the proposed work program

247 Insertion of new s 130AA

After section 130—

insert—

130AA Types of work program for term of exploration permit

- (1) A *work program* for a term of an exploration permit is—
 - (a) a work program (activities-based); or
 - (b) a work program (outcomes-based).
- (2) A *work program (activities-based)* for a term of an exploration permit is a document stating—
 - (a) the activities proposed to be carried out during the term; and

[s 248]

- (b) the estimated human, technical and financial resources proposed to be committed to exploration during the term.
- (3) A **work program (outcomes-based)** for a term of an exploration permit is a document stating—
 - (a) the outcomes proposed to be pursued during the term; and
 - (b) the strategy for pursuing the outcomes mentioned in paragraph (a); and
 - (c) the information and data proposed to be collected as an indication of mineralisation during the term; and
 - (d) the estimated human, technical and financial resources proposed to be committed to exploration during the term.

248 Amendment of s 133 (Application for exploration permit)

(1) Section 133(f)—

omit, insert—

- (f) be accompanied by—
 - (i) if any of the area of the proposed exploration permit has been the subject of an earlier permit mentioned in section 131(1)(b) or an earlier exploration permit application mentioned in section 131(1)(c)—a proposed work program (activities-based) for the term of the permit, if granted; or
 - (ii) otherwise—a proposed work program for the term of the permit, if granted; and

- (fa) be accompanied by a statement detailing exploration data captured by the applicant prior to the application in relation to the land the subject of the application; and
- (2) Section 133(g)(i), from ‘, separate’ to ‘paragraph (f),’—
omit.
- (3) Section 133(fa) and (g)—
renumber as section 133(g) and (h).

249 Amendment of s 134A (Priority of applications for grant of exploration permit)

Section 134A—

insert—

- (4) Subsection (5) applies if 1 or more applications mentioned in subsection (2) were accompanied by a proposed work program (outcomes-based) for the term of the permit, if granted.
- (5) Before deciding the priority of the applications under subsection (2), the Minister may, by written notice given to the applicant, require the applicant to give the Minister, within the reasonable period stated in the notice, a proposed work program (activities-based) for the term of the permit, if granted.

250 Amendment of s 136C (Call for tenders)

- (1) Section 136C(2)—

insert—

(aa) the proposed term of the permit; and

- (2) Section 136C(2)—

insert—

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- (ca) that the tenders must be accompanied by a proposed work program for the term of the permit, if granted; and
 - (cb) whether the proposed work program under paragraph (e) must be a proposed work program (activities-based) or a proposed work program (outcomes-based); and
- (3) Section 136C(4), ‘Subsection (2)(d)(i)’—
omit, insert—
Subsection (2)(g)(i)
- (4) Section 136C(2)(d)(ii)—
omit.
- (5) Section 136C(2)(d)(iii) and (iv)—
renumber as section 136C(2)(d)(ii) and (iii).
- (6) Section 136C(2)(aa) to (d)—
renumber as section 136C(2)(b) to (g).

251 Amendment of s 136E (Requirements for making tender)

- (1) Section 136E(b)—
omit, insert—
- (b) be accompanied by a proposed work program, of the type required under section 136C(2)(f), for the term of the permit, if granted; and
- (2) Section 136E(c), from ‘, separate’ to ‘paragraph (b),’—
omit.

252 Amendment of s 136G (Amendment of tender)

Section 136G(2), ‘program of work’—

omit, insert—

work program

253 Amendment of s 136M (Application for exploration permit for surrendered exploration permits)

Section 136M(6), ‘an exploration permit’—

omit, insert—

a new exploration permit

254 Amendment of s 136N (Grant of exploration permit for surrendered exploration permits)

(1) Section 136N(1), (2) and (3), ‘an exploration’—

omit, insert—

a new exploration

(2) Section 136N(1)(a) and (4), ‘the exploration’—

omit, insert—

the new exploration

(3) Section 136N—

insert—

(5) The term of a new exploration permit is the term decided by the Minister.

(6) However, the end of the term can not be more than 15 years after—

(a) if the area of the new exploration permit is comprised of the whole or part of the area of 1 surrendered exploration permit—the day the surrendered permit was granted; or

(b) if the area of the new exploration permit is comprised of the whole or part of the area of more than 1 surrendered exploration

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permit—the day the earliest of the
surrendered permits was granted.

255 Amendment of s 136R (Application)

(1) Section 136R(d)—

omit, insert—

(d) be accompanied by—

- (i) a proposed work program for the term of the permit, if granted; and
- (ii) a statement about how the work proposed to be carried out under the authority of the exploration permit is necessary for the operation of the coal mining project; and

(2) Section 136R(e), from ‘, separate’ to ‘paragraph (d),’—

omit.

256 Amendment of s 137 (Prescribed criteria for grant of exploration permit)

(1) Section 137(2)(d), from ‘the program’—

omit, insert—

a work program for the term of the permit;

(2) Section 137(3)—

omit, insert—

(3) In deciding whether to approve the work program for the term of the exploration permit, the Minister must have regard to—

- (a) for a work program (activities-based)—the following matters—

- (i) the extent of the proposed activities in the proposed area of the permit;
 - (ii) when and where the applicant proposes to carry out exploration activities in the proposed area of the permit;
 - (iii) whether the applicant has the financial and technical capability of carrying out the proposed activities; or
- (b) for a work program (outcomes-based)—the following matters—
- (i) whether the applicant has an adequate technical knowledge of the geology of the proposed area of the permit;
 - (ii) whether the proposed outcomes ensure appropriate exploration of the proposed area of the permit;
 - (iii) whether the applicant has the financial and technical capability of pursuing the proposed outcomes.

257 Amendment of s 137A (Details of exploration permit to be recorded in register)

Section 137A(h)—

omit, insert—

- (h) the work program approved by the Minister for the term of the permit.

258 Amendment of s 139 (Periodic reduction in area of exploration permit)

(1) Section 139(1)—

omit, insert—

- (1) The area of an exploration permit must be

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reduced—

- (a) by 50% of the area of the permit, as stated under section 137A(d) when the permit was granted, by the day that is 5 years after the grant of the permit; and
- (b) by 50% of the area remaining after the reduction under paragraph (a) by the day that is 10 years after the grant of the permit.

(2) Section 139(3) and (4)—

omit, insert—

- (3) If the holder reduces the area of an exploration permit under section 140 or 177 during a period mentioned in subsection (1), the reduction under section 140 or 177 may be counted towards the reduction required under subsection (1) for the period.
- (4) Despite subsection (1), the Minister may direct the holder of an exploration permit to reduce the area of the permit by more or less than the area required under subsection (1) if the Minister considers it necessary because of—
 - (a) an exceptional event affecting the permit; or
 - (b) circumstances arising from the permit forming part of an exploration project.
- (4A) The holder of an exploration permit must, within 3 months before the day mentioned in subsection (1), make a submission to the chief executive identifying the sub-blocks of land to which the exploration permit will apply after the reduction under subsection (1).

Note—

For other relevant provisions about making a submission, see section 386O.

(3) Section 139(5), (6) and (7), ‘subsection (4)’—

omit, insert—

subsection (5)

- (4) Section 139(7), ‘subsection (6)’—

omit, insert—

subsection (7)

- (5) Section 139(4A) to (8)—

renumber as section 139(5) to (9).

258A Insertion of new s 139A

After section 139—

insert—

139A Periodic reduction deferred if higher tenure application undecided

- (1) This section applies if—
- (a) the holder of an exploration permit has made an application for a mineral development licence or mining lease in relation to an identified area (the ***higher tenure application***); and
 - (b) at the end of a period mentioned in section 139(1), the higher tenure application has not been decided.
- (2) The area of the permit is not required to be reduced under section 139(1) by the identified area until—
- (a) if the higher tenure application is granted—the day the tenure is granted; or
 - (b) if the higher tenure application is withdrawn or refused—20 business days after the day the application is withdrawn or refused.
- (3) Also, if the higher tenure application is withdrawn

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or refused, the holder of the permit may, before the end of the period of 20 business days mentioned in subsection (2)(b), amend the holder's submission under section 139(5) to the chief executive.

- (4) The chief executive must consider an amended submission given under subsection (3) instead of any earlier submission made by the holder.
- (5) In this section—

identified area means the sub-blocks of land identified under section 139(5) as the sub-blocks of land to which an exploration permit will not apply after a reduction required under section 139(1).

259 Amendment of s 141 (Conditions of exploration permit)

- (1) Section 141(1)(a)—

omit, insert—

- (a) a condition that the holder must—

- (i) if the work program approved by the Minister for the term of the permit states the activities to be carried out during the term—carry out the activities to the extent reasonable in all of the circumstances; and
- (ii) if the work program approved by the Minister for the term of the permit states the outcomes to be pursued during the term—pursue the outcomes to the extent reasonable in all of the circumstances; and

- (2) Section 141(1)(f)—

omit, insert—

- (f) a condition that the holder must, when the Minister directs, give the Minister the following things in the way and within the period prescribed by regulation—
 - (i) a report about the exploration permit, in addition to any report mentioned in paragraph (e);
 - (ii) a sample of stated materials that were obtained because of the holder's activities under the exploration permit; and

Note—

For other relevant provisions about giving a document to the Minister, see section 386O.

260 Insertion of new s 141A

After section 141—

insert—

141A Amendment of conditions by Minister if exceptional event

- (1) This section applies if the Minister considers the conditions of an exploration permit must be amended because of an exceptional event affecting the permit.
- (2) The Minister may amend the permit by imposing a condition on, or varying or removing a condition of, the permit without application from the holder.
- (3) The amendment takes effect 10 business days after the holder is given the notice or, if the notice states a later day of effect, the later day.
- (4) This section does not limit section 141(1)(j).

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261 Amendment of s 141C (Application to vary conditions of existing permit)

(1) Section 141C(1)—

omit, insert—

(1) This section applies if a variation of the conditions of an exploration permit (the *existing permit*) is necessary because of—

- (a) an exceptional event affecting the existing permit; or
- (b) circumstances arising from the existing permit forming part of an exploration project.

(1A) The holder of the existing permit may apply to the Minister for a variation of the conditions of the permit.

(2) Section 141C—

insert—

(2A) The Minister may decide to vary, or refuse to vary, the conditions of the existing permit.

(2B) The Minister may decide to vary the conditions of the existing permit only if the Minister is satisfied the variation is necessary under subsection (1).

(3) Section 141C(3), ‘Without limiting subsection (2)’—

omit, insert—

However, without limiting subsection (3)

(4) Section 141C(4), ‘Subsections (2) and (3)’—

omit, insert—

Subsections (3) and (6)

(5) Section 141C(5), ‘subsection (3)(a)’—

omit, insert—

subsection (6)(a)

- (6) Section 141C(1A) to (5)—
renumber as section 141C(2) to (8).

262 Amendment of s 144 (Provision of security)

Section 144(1), from ‘program’ to ‘under the permit’—
omit, insert—

work program approved for the term, or further
term, of the permit

263 Amendment of s 146 (Initial term of exploration permit)

Section 146(2) and (3)—
omit.

264 Amendment of s 147 (Application for renewal of exploration permit)

- (1) Section 147(2)(c)—
omit, insert—

(c) accompanied by a proposed work program
for the further term of the permit, if
renewed.

- (2) Section 147—
insert—

(2A) Subsection (4) applies if, after considering the
proposed work program submitted under
subsection (2)(c), the Minister considers a work
program of another type mentioned in section
130AA(1) is more appropriate for the exploration
of the area of the permit, if renewed.

(2B) Before deciding the application, the Minister

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may, by written notice given to the applicant, require the applicant to give the Minister, within the reasonable period stated in the notice, a proposed work program of another type mentioned in section 130AA(1) for the further term of the permit, if renewed.

- (3) Section 147(2A) to (3)—
renumber as section 147(3) to (5).

265 Amendment of s 147A (Decision on application)

- (1) Section 147A, heading, after ‘application’—
insert—

for renewal

- (2) Section 147A(1)(b) and (c)—
omit, insert—

- (b) the activities proposed to be carried out, or the outcomes proposed to be pursued, as stated in the proposed work program for the further term of the permit, are appropriate and acceptable;
- (c) the financial and technical resources available to the holder to carry out the activities or pursue the outcomes mentioned in paragraph (b) are appropriate and acceptable;

- (3) Section 147A—
insert—

- (2A) However, the total of the initial term and all renewed terms of an exploration permit must not be more than 15 years.

- (4) Section 147A(2A) to (5)—
renumber as section 147A(3) to (6).

266 Amendment of s 147C (Continuation of permit while application being dealt with)

Section 147C(4), definition *outstanding request application*, paragraph (a), ‘all or part of’—
omit.

267 Insertion of new ss 147CA and 147CB

After section 147C—

insert—

147CA Application for extension of last renewed term of exploration permit

- (1) This section applies if—
 - (a) the total of the initial term and all renewed terms of an exploration permit is not more than 15 years; and
 - (b) an exceptional event affecting the permit that occurred in the last renewed term of the exploration permit has prevented the holder of the permit from carrying out the work program approved for the last renewed term of the permit.
- (2) The holder of the exploration permit may, within the extension period, apply to the Minister for an extension of the last renewed term of the permit.
- (3) The application must be—
 - (a) made in the approved form; and
 - (b) accompanied by—
 - (i) a statement describing the exceptional event mentioned in subsection (1)(b); and
 - (ii) the fee prescribed by regulation.
- (4) An application under this section may not be

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made more than once.

(5) In this section—

extension period means the period that is—

- (a) at least 3 months, or any shorter period allowed by the Minister in the particular case, before the last renewed term of the permit expires; and
- (b) not more than 6 months before the last renewed term of the permit expires.

147CB Decision on application for extension

- (1) The Minister must decide to extend, or refuse to extend, the last renewed term of the exploration permit.
- (2) The Minister may decide to extend the last renewed term of the exploration permit only if the Minister is satisfied—
 - (a) an exceptional event affecting the permit that occurred in the last renewed term of the permit has prevented the holder of the permit from carrying out the work program approved for the last renewed term of the permit; and
 - (b) the holder has otherwise complied with this Act in relation to the permit.
- (3) The extended term is the term of not more than 3 years decided by the Minister.
- (4) The work program approved for the last renewed term of the exploration permit applies for the extended term.
- (5) The last renewed term of an exploration permit may not be extended more than once.

268 Amendment of s 147D (When term of renewed permit starts)

Section 147D, after ‘renewed’—

insert—

or extended

269 Amendment of s 147F (Renewal of permit must be in name of last recorded transferee)

(1) Section 147F, heading, after ‘Renewal’—

insert—

or extension

(2) Section 147F, after ‘renewal’—

insert—

or extension

270 Replacement of s 148 (Rights and obligations upon application for mining claim, mining lease or mineral development licence)

Section 148—

omit, insert—

148 Continuation of exploration permit if application for other tenure

(1) This section applies if—

(a) the holder of an exploration permit makes an application for the grant of any of the following resource authorities in relation to the whole or part of the area of the exploration permit—

(i) a mining claim;

(ii) a mining lease;

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- (iii) a mining development licence; and
 - (b) the final term of the exploration permit ends before the day the application mentioned in paragraph (a) is decided.
- (2) Despite the ending of the final term of the permit, the permit continues in force in relation to the area the subject of the application mentioned in subsection (1)(a) until the earliest of the following days—
- (i) the day the grant of a resource authority mentioned in subsection (1)(a) takes effect;
 - (ii) the day the refusal of the application mentioned in subsection (1)(a) takes effect;
 - (iii) the day the application mentioned in subsection (1)(a) is withdrawn.
- (3) The entitlements of the holder of the permit are not reduced or limited only because of the holder's application for the resource authority mentioned in subsection (1)(a).
- (4) To remove any doubt, it is declared that rental is payable under section 138 in relation to any period an exploration permit continues in force under this section.
- (5) In this section—
- final term*, of an exploration permit, means the term that ends 15 years after the grant of the permit.

271 Amendment of s 161 (Surrender of exploration permit)

Section 161(4)—

omit, insert—

- (4) If, when the holder of an exploration permit purports to surrender the permit, the holder makes

an application for a new exploration permit under section 133 in relation to the whole or part of the area of the exploration permit to be surrendered, the purported surrender takes effect—

- (a) only if the new exploration permit is granted by the Minister; and
 - (b) immediately before the grant of the new exploration permit by the Minister.
- (4A) The term of the new exploration permit is the term decided by the Minister.
- (4B) However, the end of the term of the new exploration permit can not be more than 15 years after—
- (a) if the area of the new exploration permit is comprised of the whole or part of the area of 1 surrendered exploration permit—the day the surrendered permit was granted; or
 - (b) if the area of the new exploration permit is comprised of the whole or part of the area of more than 1 surrendered exploration permit—the day the earliest of the surrendered permits was granted.
- (4C) For sections 147 and 147CA, if the surrendered permit mentioned in subsection (4B)(a), or the earliest of the surrendered permits mentioned in subsection (4B)(b), is a renewed exploration permit, the new exploration permit is taken to have been renewed for the same term as the surrendered permit.

272 Insertion of new ch 15, pt 15, div 1, hdg

Before section 846, as inserted by this Act—

insert—

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Division 1 **Provisions for
amendments commencing
on assent**

273 **Insertion of new ch 15, pt 15, div 2**

Chapter 15, part 15, as inserted by this Act—

insert—

Division 2 **Provisions for
amendments commencing
by proclamation**

849 Definitions for division

In this division—

former, for a provision, means as in force before the commencement.

new, for a provision, means as in force from the commencement.

850 Existing programs of work

- (1) This section applies to a program of work for the current term of an exploration permit that is in effect on the commencement.
- (2) The program of work is taken to be a work program for the current term of the permit.
- (3) However, former section 141(1)(a) continues to apply in relation to the program of work, as if new section 141(1)(a) had not commenced.

851 Existing applications for particular exploration permits

- (1) This section applies to an application under former section 133 or 136R for an exploration permit made, but not decided, before the commencement.
- (2) However, this section does not apply to the application if it was lodged on the same day as another application and the priority of the applications is required to be decided by the Minister under section 134A(2).
- (3) If the application does not include all of the information required under new section 130AA for a proposed work program for the term of the exploration permit, the applicant may, within 6 months after the commencement, give the chief executive the information not included.
- (4) The statement provided by the applicant under former section 133(f) or 136R(d), and any additional information provided by the applicant under subsection (3), is taken to be a proposed work program for the term of the permit, if granted, for new section 133(f) or 136R(d).
- (5) New section 137 applies in relation to the application whether or not the applicant provides information under subsection (3).
- (6) To remove any doubt, it is declared that, if the applicant does not provide information under subsection (3), the Minister must decide, under new section 137(3), whether to approve the statement provided by the applicant under former section 133(f) or 136R(d) as a work program.

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852 Existing tenders for particular exploration permits

- (1) This section applies to a tender under former section 136E for an exploration permit for coal made, but not decided, before the commencement.
- (2) Former section 137 continues to apply in relation to the tender, as if new section 137 had not commenced.

853 Existing applications to vary conditions of exploration permit

- (1) This section applies to an application under former section 141C for a variation of the conditions of an exploration permit made, but not decided, before the commencement.
- (2) Former section 141C continues to apply in relation to the application, as if new section 141C had not commenced.
- (3) However, if the application is related to a reduction in the area of the permit, the application is taken to be withdrawn and section 857 applies in relation to the permit.

854 Existing applications for renewal of exploration permit

- (1) This section applies to an application under former section 147 for renewal of an exploration permit made, but not decided, before the commencement.
- (2) If the application does not include all of the information required under new section 130AA for a proposed work program for the term of the exploration permit, if renewed, the applicant may, within 3 months after the commencement, give

the chief executive the information not included.

- (3) The statement provided by the applicant under former section 147(2)(c), and any additional information provided by the applicant under subsection (2), is taken to be a proposed work program for the term of the permit, if renewed.
- (4) New section 147A applies in relation to the application whether or not the applicant provides information under subsection (2).
- (5) To remove any doubt, it is declared that, if the applicant does not provide information under subsection (2), the Minister must decide whether to approve the statement provided by the applicant under former section 147(2)(c) as a work program for the term of the permit, if renewed.

855 Limitation on applications to vary conditions of exploration permit

- (1) This section applies to an exploration permit in force on the commencement.
- (2) Former section 141C continues to apply in relation to an application for a variation of the conditions of the exploration permit made during the current term of the permit, as if new section 141C had not commenced.
- (3) New section 141C applies in relation to an application for a variation of the conditions of the exploration permit made after the end of the current term of the permit.
- (3A) However—
 - (a) if an application mentioned in subsection (2), made before the commencement, is related to a reduction in the area of the permit, the application is taken to be

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withdrawn and section 857 applies in relation to the permit; and

- (b) if an application mentioned in subsection (2) or (3), made after the commencement, is related to a reduction in the area of the permit, the application is invalid and section 857 applies in relation to the permit.

- (4) In this section—

current term, of an exploration permit, means the term—

- (a) starting before the commencement; and
- (b) ending when the permit is first renewed after the commencement.

856 Restrictions on renewal of exploration permit

- (1) This section applies to an exploration permit in force on the commencement.
- (2) The total of all renewed terms of the permit, granted in relation to applications for renewal made after the commencement, must not be more than 10 years.
- (3) New section 147A(3) does not apply in relation to the permit.

857 Relinquishment requirements for existing exploration permits

- (1) This section applies to an exploration permit in force on the commencement.
- (2) Despite new section 139(1), if the permit is renewed after the commencement, the area of the permit is required to be reduced only by 50% of the area of the permit, as existing on the commencement, by the day that is 5 years after

the permit is first renewed after the commencement.

- (3) Despite new section 139(1) and subsection (2), if the permit is an exploration permit for coal to which the Common Provisions Act, section 232(1) applies, and no agreement has been made in relation to the permit under section 232(2) of that Act, the area of the permit is not required to be reduced by any amount.
- (4) Subsections (2) and (3) apply despite any condition about reducing the area of the permit determined by the Minister under section 141(1)(j) before the commencement.
- (5) New sections 139 and 139A apply in relation to a reduction in the area of the permit under subsection (2) as if it were a reduction under new section 139(1).
- (6) For subsection (5), a reference in new sections 139 and 139A to section 139(1) is taken to be a reference to subsection (2).

861 Power to direct reduction of area of exploration permit of more or less than prescribed area

The power under new section 139(4) to direct the holder of an exploration permit to reduce the area of the exploration permit by more or less than the area prescribed by new section 139(1) applies to an exploration permit whether it was granted before or after the commencement.

862 Application for extension of last renewed term of exploration permit

The holder of an exploration permit may apply under new section 147CA for an extension of the

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last renewed term of the permit even if the exploration permit was granted before the commencement.

863 Power to impose, remove or vary condition of exploration permit

The power under new section 141A to impose a condition on, or vary or remove a condition of, an exploration permit applies to an exploration permit whether it was granted before or after the commencement.

864 Continuation of exploration permit if application for other tenure

- (1) This section applies to an exploration permit in force on the commencement.
- (2) A reference in new section 148 to the final term of the exploration permit is taken to be a reference to the last renewed term of the permit permitted under section 856.

274 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *protected area* and *work program*—
omit.
- (2) Schedule 2—
insert—

exceptional event, affecting an exploration permit—

- (a) means an event that—
 - (i) affects the carrying out of authorised activities under the permit; and

- (ii) is beyond the control of the holder of the permit; and
 - (iii) could not reasonably have been prevented by the holder of the permit; and
- (b) does not include a takeover bid under the Corporations Act, chapter 6 made or proposed by another entity in relation to the holder of the permit.

exploration project means a project involving 2 or more exploration permits that have a unifying exploration purpose.

work program—

- (a) for activities to be carried out under a mining claim, means a document containing the following information about the activities—
- (i) the mining method to be used;
 - (ii) details of water storage facilities for the area of the mining claim;
 - (iii) information about mine workings on or to be located on the area of the claim or land adjoining the claim;
 - (iv) the quantity of minerals to be mined;
 - (v) the treatment methods to be used on the mined minerals;
 - (vi) details of electrical equipment and explosives to be used for the activities;
 - (vii) information about the proposed hours of operation and the number of employees for the activities;
 - (viii) details of any buildings or other structures, including, for example,

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sheds and temporary accommodation buildings, located or to be located in the area;

(ix) other information about the activities prescribed by regulation; or

(b) for a term of an exploration permit—see section 130AA(1).

work program (activities-based), for a term of an exploration permit, see section 130AA(2).

work program (outcomes-based), for a term of an exploration permit, see section 130AA(3).

(3) Schedule 2, definition *closing time*, ‘section 136C(2)(b)’—
omit, insert—

section 136C(2)(c)

(4) Schedule 2, definition *land*, from ‘subterranean land;’—
omit, insert—

subterranean land.

(5) Schedule 2, definition *special criteria*, ‘section 136C(2)(d)(iii)’—

omit, insert—

section 136C(2)(g)(ii)

Part 2 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

275 **Act amended**

This part amends the *Petroleum and Gas (Production and Safety) Act 2004*.

Note—

See also the amendments in chapter 4, part 8.

276 Amendment of s 35 (Call for tenders)

(1) Section 35(2)—

insert—

(aa) the proposed term of the authority; and

(2) Section 35(2)—

insert—

(ba) that the tenders must be accompanied by a proposed initial work program for the period mentioned in paragraph (h)(ii); and

(bb) whether the proposed initial work program under paragraph (d) must be a proposed work program (activities-based) or a proposed work program (outcomes-based); and

(3) Section 35(5)—

omit, insert—

(5) Subsection (2)(h)(i) does not limit the Minister's power to decide conditions of the authority if it is granted.

(4) Section 35(2)(aa) to (e)—

renumber as section 35(2)(b) to (h).

277 Amendment of s 41 (Deciding whether to grant authority to prospect)

Section 41, after the note—

insert—

(3) The Minister may impose on the authority the

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conditions the Minister considers appropriate.

- (4) Subsection (3) does not limit or otherwise affect section 42(3)(a) or (3A).

278 Amendment of s 42 (Provisions of authority to prospect)

Section 42(3)(c) and note, (7), (8) and (9)—

omit.

279 Insertion of new s 42A

After section 42—

insert—

42A Amendment of conditions by Minister if exceptional event

- (1) This section applies if the Minister considers the conditions of an authority to prospect must be amended because of an exceptional event affecting the authority.
- (2) The Minister may amend the authority by imposing a condition on, or varying or removing a condition of, the authority without application from the holder.
- (3) The amendment takes effect 10 business days after the holder is given the notice or, if the notice states a later day of effect, the later day.
- (4) This section does not limit section 41(3).

280 Replacement of ch 2, pt 1, div 3, sdiv 1 (Function and purpose of work program)

Chapter 2, part 1, division 3, subdivision 1—

omit, insert—

Subdivision 1 Types of work program

45 Types of work program for authority to prospect

- (1) A *work program* for an authority to prospect is—
 - (a) a work program (activities-based); or
 - (b) a work program (outcomes-based).
- (2) A *work program (activities-based)* for an authority to prospect is a document stating—
 - (a) the activities proposed to be carried out during the period of the program; and
 - (b) the estimated human, technical and financial resources proposed to be committed to exploration during the period of the program.
- (3) A *work program (outcomes-based)* for an authority to prospect is a document stating—
 - (a) the outcomes proposed to be pursued during the period of the program; and
 - (b) the strategy for pursuing the outcomes mentioned in paragraph (a); and
 - (c) the information and data proposed to be collected about the existence of petroleum or gas during the period of the program; and
 - (d) the estimated human, technical and financial resources proposed to be committed to exploration during the period of the program.

281 Amendment of s 46 (Operation of sdiv 2)

- (1) Section 46, heading, ‘sdiv 2’—
omit, insert—
subdivision

[s 282]

(2) Section 46, ‘proposed work program’—

omit, insert—

proposed initial work program

282 Amendment of s 47 (Program period)

Section 47(1), ‘proposed program’—

omit, insert—

proposed initial work program

283 Replacement of s 48 (General requirements)

Section 48—

omit, insert—

48 General requirements

- (1) The proposed initial work program must be of the type required under section 35(2)(e).
- (2) The proposed initial work program must include—
 - (a) maps that show where the exploration under the proposed authority to prospect is proposed to be carried out; and
 - (b) reasons why the holder of the proposed authority to prospect considers the program to be appropriate; and
 - (c) any other information relevant to the work program criteria; and
 - (d) any other information prescribed by regulation.

284 Replacement of s 51 (General requirements)

Section 51—

omit, insert—

51 General requirements

- (1) The proposed later work program for an authority to prospect may be a work program (activities-based) or work program (outcomes-based).
- (2) The proposed later work program must state—
 - (a) the extent to which the current work program for the authority to prospect has been complied with; and
 - (b) if there have been any amendments to the authority to prospect or the current work program—
 - (i) whether the changes have been incorporated in the proposed later work program; and
 - (ii) any effect the changes have on the proposed later work program; and
 - (c) the effect of any petroleum discovery on the proposed later work program.
- (3) The proposed later work program must include—
 - (a) maps that show where the exploration under the authority to prospect is proposed to be carried out; and
 - (b) reasons why the holder of the authority to prospect considers the program to be appropriate; and
 - (c) any other information prescribed by regulation.

285 Amendment of s 52 (Program period)

- (1) Section 52(1), ‘proposed program’—

[s 286]

omit, insert—

proposed later work program

(2) Section 52(2), ‘4 years’—

omit, insert—

6 years

286 Amendment of s 53 (Implementation of evaluation program for potential commercial area)

Section 53, ‘proposed program’—

omit, insert—

proposed later work program

287 Amendment of s 56 (Authority taken to have work program until decision on whether to approve proposed work program)

(1) Section 56, heading, ‘proposed work program’—

omit, insert—

proposed later work program

(2) Section 56(1), ‘proposed program’—

omit, insert—

proposed later work program

288 Amendment of s 57 (Deciding whether to approve proposed program)

Section 57, ‘proposed program’—

omit, insert—

proposed later work program

289 Amendment of s 59 (Restrictions on amending work program)

(1) Section 59(1)(b), after ‘subsection (2)’—

insert—

or (3)

(2) Section 59(2)—

omit, insert—

(2) For subsection (1)(b), the requirements for an amendment to extend the period of an approved initial work program for an authority to prospect are—

(a) the period of the approved initial work program has not previously been extended; and

(b) either—

(i) the Minister is satisfied the amendment is needed for a reason beyond the holder’s control; or

(ii) within 3 months before the making of the application, the authority to prospect has been transferred within the meaning of subsection (4).

(3) For subsection (1)(b), the requirements for an amendment to extend the period of an approved later work program for an authority to prospect are—

(a) the period of the approved later work program, and any earlier approved work program for the authority, has not previously been extended; and

(b) within 3 months before the making of the application, the authority to prospect has

[s 290]

- been transferred within the meaning of subsection (4).
- (4) For subsection (2) and (3), an authority to prospect is transferred only if—
- (a) a person (the *designated person*) became a holder of the authority as a result of—
 - (i) an application having been made, under the Common Provisions Act, for approval to register a transfer of a share in the authority; and
 - (ii) approval to register the transfer having been given under that Act; and
 - (b) the share, or proposed share, of the designated person in the authority is at least 50%; and
 - (c) the designated person is not, under the Corporations Act, section 64B, an entity connected with another person who is a holder of the authority.
- (5) An amendment under this section to extend the period of a work program may be granted only if the extended period ends no later than—
- (a) 1 year after the current period of the work program; or
 - (b) 12 years after the authority originally took effect.

290 Amendment of s 62 (Deciding application)

- (1) Section 62(2)(a), after ‘section 59(2)’—
- insert—*
- or (3)
- (2) Section 62(2)(b), ‘section 59(2)’—

omit, insert—

section 59(4)

- (3) Section 62(4), ‘any’—

omit, insert—

the

- (4) Section 62(5)—

omit, insert—

- (5) A deferral under subsection (4) can not be for longer than 12 years after the authority took effect.

291 Omission of ch 2, pt 1, div 3, sdiv 7 (Special statutory extension of work programs)

Chapter 2, part 1, division 3, subdivision 7—

omit.

292 Insertion of new s 64A

Before section 65—

insert—

64A What is the *relinquishment day*

The *relinquishment day*, for an authority to prospect, is the day before the sixth anniversary of the day the authority took effect.

293 Amendment of s 65 (Standard relinquishment condition)

- (1) Section 65(1)(a), ‘each of its relinquishment days’—

omit, insert—

the relinquishment day for the authority

- (2) Section 65(2)—

[s 294]

omit, insert—

- (2) However, if, under section 62(4), the relinquishment day for the authority (the ***original day***) is deferred for a stated period, for the relinquishment condition, the relinquishment that was required on or before the original day is taken to have been deferred until the end of the stated period.

294 Amendment of s 66 (Part usually required to be relinquished)

Section 66(2)—

omit, insert—

- (2) The holder must relinquish 50% of the original notional sub-blocks of the authority to prospect by the end of the relinquishment day.

295 Amendment of s 68 (Adjustments for sub-blocks that can not be counted)

Section 68(1), ‘a relinquishment day’—

omit, insert—

the relinquishment day for an authority to prospect

296 Amendment of s 70 (Relinquishment must be by blocks)

- (1) Section 70, heading, after ‘blocks’—

insert—

or sub-blocks

- (2) Section 70(1)—

omit, insert—

- (1) A relinquishment under the relinquishment

condition—

- (a) may be by blocks or sub-blocks; and
- (b) must be of at least 1 block.

(3) Section 70(2), ‘subsection (1)’—

omit, insert—

subsection (1)(b)

297 Replacement of s 78 (Compliance with exploration activities in work program)

Section 78—

omit, insert—

78 Compliance with work program

The holder of an authority to prospect must comply with the work program for the authority.

298 Amendment of s 84 (Deciding application)

(1) Section 84(2)(b)(iii)(A), note—

omit, insert—

Note—

See sections 35(2)(h)(iii) and 43.

(2) Section 84—

insert—

(4A) Subsection (6) applies if, after considering the proposed later work program mentioned in subsection (2)(a), the Minister considers a work program of another type mentioned in section 45(1) is more appropriate for the exploration of the area of the permit, if renewed.

(4B) Before deciding the application, the Minister may, by written notice given to the applicant,

[s 299]

require the applicant to give the Minister, within the reasonable period stated in the notice, a proposed work program of another type mentioned in section 45(1) for the further term of the permit, if renewed.

- (3) Section 84(4A) to (6)—
renumber as section 84(5) to (8).

299 Amendment of s 85 (Provisions and term of renewed authority)

- (1) Section 85(4)—
omit.
- (2) Section 85(9), ‘subsection (8)(b)’—
omit, insert—
subsection (7)(b)
- (3) Section 85(5) to (9)—
renumber as section 85(4) to (8).

300 Amendment of s 89 (Applying for potential commercial area)

- (1) Section 89—
insert—
(3A) However, each part to which the application relates must be part of the same authority to prospect.
- (2) Section 89(5), ‘subsection (4)(a)’—
omit, insert—
subsection (5)(a)
- (3) Section 89(3A) to (5)—
renumber as section 89(4) to (6).

301 Amendment of s 90 (Deciding potential commercial area application)

(1) Section 90(1), note—

omit, insert—

Note—

See section 85.

(2) Section 90(2)—

omit, insert—

(2) Also, the area declared must form a single parcel of land.

302 Amendment of s 105 (Deciding application)

Section 105(2)(b)(iii), note—

omit, insert—

Note—

See sections 35(2)(h)(iii) and 43.

303 Insertion of new ch 2, pt 1, div 8, sdiv 2A

Chapter 2, part 1, division 8—

insert—

Subdivision 2A Amalgamating potential commercial areas

107AA Applying to amalgamate

(1) The holder of an authority to prospect may apply to the Minister to amalgamate 2 or more potential commercial areas for the authority to prospect into a single potential commercial area for the authority to prospect (the *amalgamated potential commercial area*).

[s 303]

- (2) The holder can not make an application under subsection (1) if—
 - (a) the holder has not complied with a provision of this Act; or
 - (b) any of the following amounts is outstanding in relation to the authority to prospect—
 - (i) annual rent;
 - (ii) a civil penalty under section 76 for non-payment of annual rent;
 - (iii) interest payable under section 588 on annual rent or a civil penalty;
 - (iv) a royalty-related amount payable by the holder;
 - (v) security required under section 488.

107AB Requirements for making application

The application must—

- (a) be in the approved form; and
- (b) include a report for, or that includes, the proposed amalgamated potential commercial area that—
 - (i) meets the requirements under section 231 for a commercial viability report; and
 - (ii) is still relevant to the circumstances of the proposed amalgamated potential commercial area; and
- (c) include a proposed evaluation program for—
 - (i) potential petroleum production or storage in the proposed amalgamated potential commercial area; and

- (ii) market opportunities for the potential petroleum production or storage mentioned in subparagraph (i); and
- (d) be accompanied by the fee prescribed by regulation.

107AC Deciding application

- (1) The Minister may declare the amalgamated potential commercial area for the authority to prospect only if satisfied the area is no more than is needed to cover the maximum extent of a natural underground reservoir identified in the report mentioned in section 107AB(b).
- (2) Also—
 - (a) before deciding to declare the amalgamated potential commercial area for the authority to prospect, the Minister must decide whether to approve the proposed evaluation program for the amalgamated potential commercial area; and
 - (b) the amalgamated potential commercial area can not be declared unless—
 - (i) the proposed evaluation program for the amalgamated potential commercial area has been approved; and
 - (ii) the Minister is satisfied the holder of the authority to prospect—
 - (A) continues to satisfy the capability criteria that applied in relation to the authority; and
 - (B) continues to satisfy any special criteria that applied in relation to the authority; and

[s 303]

- (C) has substantially complied with the conditions of the authority.
- (3) The Minister may, as a condition of declaring the amalgamated potential commercial area for the authority to prospect, require the applicant to give security or additional security for the authority to prospect, under section 488, within a stated reasonable period.
- (4) If the applicant does not comply with a requirement under subsection (3), the application may be refused.

107AD Term of declaration

A declaration of an amalgamated potential commercial area for an authority to prospect continues in force for 15 years from the making of the latest of the declarations of the potential commercial areas for the authorities to prospect that have been amalgamated.

107AE Steps after deciding application

- (1) If the Minister decides to declare the amalgamated potential commercial area for the authority to prospect, the Minister must give the holder of the authority to prospect notice of—
- (a) the term of the declaration; and
 - (b) the evaluation program approved for the amalgamated potential commercial area.
- (2) If the Minister decides to refuse to declare the amalgamated potential commercial area for the authority to prospect, the Minister must give the applicant an information notice for the decision.

304 Amendment of s 107A (Application for special amendment)

(1) Section 107A(2)—

omit, insert—

(1A) However, the holder may apply for the special amendment only if the special amendment is necessary because of—

(a) an exceptional event affecting the authority;
or

(b) circumstances arising from the authority forming part of an exploration project.

(2) The application must state the event mentioned in subsection (2)(a), or the circumstances mentioned in subsection (2)(b), and how the event or circumstances justify the special amendment.

(2) Section 107A(1A) to (3)—

renumber as section 107A(2) to (4).

305 Amendment of s 107D (Approval of special amendment)

Section 107D(1), ‘in the circumstances’—

omit, insert—

by an event mentioned in section 107A(2)(a) or circumstances mentioned in section 107A(2)(b)

306 Amendment of s 168 (Area of petroleum lease)

Section 168(8)—

omit.

307 Insertion of new ch 2, pt 2, div 7, sdiv 1A

Chapter 2, part 2, division 7—

insert—

Subdivision 1A Amalgamating particular petroleum leases

170A Application of subdivision

This subdivision applies in relation to petroleum leases other than 1923 Act leases.

170B Applying to amalgamate

- (1) A person may apply to the Minister to amalgamate 2 or more petroleum leases (each an *individual lease*) into a single petroleum lease (the *amalgamated lease*).
- (2) An application can be made only if—
 - (a) all of the holders of the individual leases agree to the proposed amalgamation; and
 - (b) the holders of the amalgamated lease will be the same as the holders of the individual leases.
- (3) Also, a person can not make an application under subsection (1) if—
 - (a) any of the holders of the individual leases have not complied with a provision of this Act; or
 - (b) any of the following amounts is outstanding in relation to an individual lease—
 - (i) annual rent;
 - (ii) a civil penalty under section 156 for non-payment of annual rent;
 - (iii) interest payable under section 588 on annual rent or a civil penalty;

- (iv) a royalty-related amount payable by the holder;
- (v) security required under section 488.

170C Requirements for making application

The application must—

- (a) be in the approved form; and
- (b) include a proposed development plan for the amalgamated lease that, to the extent possible, is the same as the development plans for the individual leases; and
- (c) be accompanied by the fee prescribed by regulation.

170D Deciding application

- (1) The Minister may decide to grant or refuse to grant the amalgamated lease.
- (2) However—
 - (a) before deciding to grant the amalgamated lease, the Minister must decide whether to approve the proposed development plan for the amalgamated lease; and
 - (b) the amalgamated lease can not be granted unless—
 - (i) the proposed development plan for the amalgamated lease has been approved; and
 - (ii) the Minister is satisfied each proposed holder of the amalgamated lease—
 - (A) satisfies the capability criteria; and

[s 307]

- (B) continues to satisfy any special criteria that applied for deciding the application for each of the individual leases; and
 - (C) has substantially complied with the conditions of the individual leases.
- (3) The matters that may be considered in granting the amalgamated lease include the development plans for the individual leases, the proposed development plan for the amalgamated lease and the capability criteria.
- (4) The Minister may, as a condition of granting the amalgamated lease, require the applicant to give security or additional security for the amalgamated lease, under section 488, within a stated reasonable period.
- (5) If the applicant does not comply with a requirement under subsection (4), the application may be refused.

170E Provisions of amalgamated lease

- (1) Subject to this section, section 123 applies for the provisions of an amalgamated lease as if it were a petroleum lease granted under division 2.
- (2) However, the production commencement day for the amalgamated lease must not be later than the earliest production commencement day of the individual leases.

170F Steps after deciding application

- (1) If the Minister decides to grant the amalgamated lease, the Minister must give the applicant and any other holder of the amalgamated lease notice

of—

(a) the provisions under section 123 of the lease; and

(b) the development plan approved for the lease.

(2) If the Minister decides to refuse to grant the amalgamated lease, the Minister must give the applicant an information notice for the decision.

308 Amendment of s 173 (Deciding application)

Section 173(2)(b)(iv), note—

omit, insert—

Note—

See sections 35(2)(h)(iii) and 43.

309 Amendment of s 332 (Right to apply for petroleum lease)

Section 332(2), ‘section 168(4) to (8)’—

omit, insert—

section 168(4) to (7)

310 Amendment of s 352 (Right to apply for petroleum lease)

Section 352(2), ‘section 168(4) to (8)’—

omit, insert—

section 168(4) to (7)

311 Insertion of new ch 15, pt 24

Chapter 15—

insert—

Part 24

Transitional provisions for Natural Resources and Other Legislation Amendment Act 2019

1002 Definition for part

In this part—

new, for a provision, means as in force from the commencement.

1003 Power to impose, vary or remove condition of authority to prospect

The power under new section 42A to impose a condition on, or vary or remove a condition of, an authority to prospect applies to an authority to prospect whether it was granted before or after the commencement.

1004 Relinquishment requirements

The requirement under new section 66(2) for the holder of an authority to prospect to relinquish 50% of the original notional sub-blocks of the authority by the end of the relinquishment day applies only if the authority was granted after the commencement.

1005 Existing applications for renewal of authority to prospect

- (1) This section applies to an application under section 82 for renewal of an authority to prospect made, but not decided, before the commencement.

- (2) If the application does not include all of the information required under new section 45 for a proposed later work program for the renewed authority, the applicant may, within 3 months after the commencement, give the chief executive the information not included.
- (3) The proposed later work program provided by the applicant under section 82(1)(d), and any additional information provided by the applicant under subsection (2), is taken to be a proposed later work program for the renewed authority to prospect for new section 84.
- (4) New section 84 applies in relation to the application whether or not the applicant provides information under subsection (2).
- (5) To remove any doubt, it is declared that, if the applicant does not provide information under subsection (2), the Minister must decide, under new section 84, whether to approve the proposed later work program provided by the applicant under section 82(1)(d) as the later work program for the renewed authority to prospect.

312 Amendment of sch 1 (Reviews and appeals)

- (1) Schedule 1, table 2, entry for authorities to prospect—

insert—

107AE(2) Refusal to declare amalgamated potential Land Court
commercial area for authority to prospect

- (2) Schedule 1, table 2, entry for petroleum leases—

insert—

170F(2) Refusal to grant amalgamated lease Land Court

[s 313]

313 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definitions *2-year extension*, *current work program*, *extended remaining period* and *work program*—
omit.
- (2) Schedule 2—
insert—

amalgamated lease, for chapter 2, part 2, division 7, subdivision 1A, see section 170B(1).

amalgamated potential commercial area, for chapter 2, part 1, division 8, subdivision 2A, see section 107AA.

exceptional event, affecting an authority to prospect—

- (a) means an event that—
- (i) affects the carrying out of authorised activities under the authority; and
 - (ii) is beyond the control of the holder of the authority; and
 - (iii) could not reasonably have been prevented by the holder of the authority; and
- (b) does not include a takeover bid under the Corporations Act, chapter 6 made or proposed by another entity in relation to the holder of the authority.

exploration project means a project involving 2 or more authorities to prospect that have a unifying exploration purpose.

individual lease, for chapter 2, part 2, division 7, subdivision 1A, see section 170B(1).

relinquishment day, for an authority to prospect, see section 64A.

**315 Amendment of s 53AQ (Provision about service areas—
after water netserv plan is in effect)**

Section 53AQ(2) and (3)—

omit, insert—

- (2) For a relevant provision—
 - (a) the distributor-retailer's connection area is taken to be a service area, for both a retail water service and a sewerage service, within the meaning of the Water Supply Act; and
 - (b) the distributor-retailer is taken to be the service provider for the service area, for both a retail water service and a sewerage service, within the meaning of the Water Supply Act.
- (3) In this section—

relevant provision means the following provisions of the Water Supply Act—

 - (a) section 161(9);
 - (b) chapter 2, part 5, divisions 3 and 5;
 - (c) schedule 3, definition *retail water service*.

**316 Amendment of s 92DB (Provision about service areas—
after water netserv plan is in effect)**

Section 92DB(2) and (3)—

omit, insert—

- (2) The Water Supply Act, section 161(2) does not apply to the withdrawn council.
- (3) For a relevant provision—
 - (a) the withdrawn council's connection area is taken to be a service area, for both a retail

water service and a sewerage service, within the meaning of the Water Supply Act; and

- (b) the withdrawn council is taken to be the service provider for the service area, for both a retail water service and a sewerage service, within the meaning of the Water Supply Act.

- (4) In this section—

relevant provision means the following provisions of the Water Supply Act—

- (a) section 161(9);
- (b) chapter 2, part 5, divisions 3 to 5;
- (c) schedule 3, definition *retail water service*.

317 Amendment of s 99BRCK (Requirements for infrastructure charges notice)

Section 99BRCK(2)—

omit, insert—

- (2) The infrastructure charges notice must—
 - (a) state the date of the notice; and
 - (b) state any review or appeal rights the recipient of the notice has in relation to the notice; and

Note—

See chapter 4C, part 4 for reviews and appeals in relation to a decision to give an infrastructure charges notice.

- (c) include or be accompanied by any other information prescribed by regulation.

318 Amendment of ch 6, hdg (Transitional provisions)

Chapter 6, heading, after ‘Transitional’—

insert—

and validation

319 Insertion of new ch 6, pt 12

Chapter 6—

insert—

Part 12

**Validation provision for
Natural Resources and
Other Legislation
Amendment Act 2019**

**152 Validation provision for particular
infrastructure charges notices**

- (1) This section applies to an infrastructure charges notice given under this Act before the commencement if the infrastructure charges notice did not include, or was not accompanied by, an information notice about the decision to give the infrastructure charges notice that states the reasons for the decision.
- (2) It is declared that the infrastructure charges notice is taken to be, and to always have been, as valid as it would have been if it had included, or been accompanied by, an information notice about the decision to give the infrastructure charges notice that states the reasons for the decision.
- (3) It is also declared that anything done, or to be done, in relation to the recovery of the levied charge under the infrastructure charges notice by the distributor-retailer that gave the notice is as

[s 322]

renumber as section 13(2) and (3).

322 Amendment of s 36 (Quarterly reports)

Section 36(2)(a), ‘6 weeks’—

omit, insert—

1 month

323 Replacement of s 56 (Meaning of *community service obligations*)

Section 56—

omit, insert—

56 Meaning of *community service obligations*

The *community service obligations* of the Authority are the obligations to perform activities that—

- (a) the board establishes to the satisfaction of the responsible Ministers—
 - (i) are not in the Authority’s commercial interests to perform; and
 - (ii) either—
 - (A) arise because of a request or direction under section 46 or a direction under section 50, 58 or 61; or
 - (B) the Authority is required to perform under another Act; or
- (b) are stated in the operational plan as community service obligations of the Authority.

[s 327]

327 Replacement of s 109 (When application may not be made)

Section 109—

omit, insert—

109 When application may not be made

- (1) An application can not be made for a water licence—
 - (a) for an activity the applicant is authorised to do under part 3, division 1; or
 - (b) in relation to the release of unallocated water.
- (2) Subsection (1)(b) does not apply to an application that is part of a process prescribed under section 40(2).

328 Amendment of s 112 (Public notice of application for water licence)

Section 112(4)(b), after ‘where’—

insert—

, including on the department’s website or on the Queensland Government business and industry portal,

329 Amendment of s 134 (Amendment of water licence after show cause process)

Section 134(2)(d), ‘or change’—

omit.

330 Amendment of s 241 (Referral panels)

- (1) Section 241(1)(c)—

omit, insert—

- (c) water licences to be granted or amended under section 116 or 133; or
 - (ca) water allocations to be granted under section 147; or
- (2) Section 241(1)(ca) to (f)—
renumber as section 241(1)(d) to (g).

331 Replacement of ch 4, pt 4, div 1 (Appointment etc. of board of directors)

Chapter 4, part 4, division 1—

omit, insert—

Division 1 Appointment and related matters

597 Board of directors

Each water authority has a board of directors (a *board*).

598 Role of board

- (1) The board of a water authority is responsible for the way in which the authority performs its functions and exercises its powers.
- (2) Without limiting subsection (1), it is the board's role—
 - (a) to decide the objectives, strategies and policies to be followed by the authority; and
 - (b) to ensure the authority performs its functions in a proper, effective and efficient way.

599 Number of directors

The board of a water authority consists of the number of directors for the authority stated by the chief executive in a gazette notice.

600 Appointment

- (1) The Governor in Council may appoint an appropriately qualified person as a director for a category 1 water authority.
- (2) The Minister may appoint an appropriately qualified person as a director for a category 2 water authority.
- (3) In recommending a person to the Governor in Council for appointment under subsection (1), or appointing a person under subsection (2), the Minister must have regard to—
 - (a) providing balanced gender representation in the boards of water authorities; and
 - (b) any other matter the Minister considers relevant.
- (4) Also, in appointing a person under subsection (2), the Minister must have regard to the names of suitable candidates, if any, given to the Minister under section 609.

601 Chairperson

- (1) The chief executive may appoint a director for a category 1 water authority as the board's chairperson.
- (2) The directors for a category 2 water authority may appoint a director as the board's chairperson.
- (3) If a chairperson is not appointed under subsection (2) within 1 month after the board's first meeting

under section 620(2)(a) or 1 month after the office of chairperson becomes vacant, the chief executive may appoint a director as the board's chairperson.

- (4) Unless a director's appointment as chairperson ends sooner under this Act, the director holds office as chairperson until the annual meeting after the appointment is made and may be reappointed at that meeting.

602 Disqualification as director

- (1) A person is disqualified from being appointed or continuing as a director for a water authority if the person—
- (a) has a conviction, other than a spent conviction, for an indictable offence; or
 - (b) is an insolvent under administration; or
 - (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
 - (d) is an employee of the authority; or
 - (e) is directly interested in an agreement with, or on behalf of, the authority.
- (2) Subsection (1)(e) does not apply to a person to the extent the person is directly interested in an agreement with the water authority for the supply of water.

603 Criminal history report

- (1) To decide if a person is disqualified from being appointed or continuing as a director for a water authority, the Minister may ask the commissioner of the police service for—

[s 331]

- (a) a written report about the criminal history of the person; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
 - (3) The commissioner of the police service must comply with the request.
 - (4) However, the duty to comply applies only to information in the possession of the commissioner of the police service or to which the commissioner of the police service has access.
 - (5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

604 Term

- (1) A director for a water authority holds office for the term stated in the director's instrument of appointment.
- (2) The stated term must not be more than 3 years.
- (3) The director may be reappointed.
- (4) Despite subsections (1) and (2), a director for a category 1 water authority continues holding office after the director's term of office ends until the day the director's successor is appointed under section 600.

605 Resignation

- (1) A director for a water authority may resign by signed notice given to the chairperson of the

authority's board and the chief executive.

- (2) The chairperson of a board may resign from office as chairperson, or as a director, by signed notice of resignation given to the other directors of the board and the chief executive.

606 Removal of director

The Governor in Council, for a category 1 water authority, or the Minister, for a category 2 water authority, may remove a director for the authority from office if the director—

- (a) has engaged in—
 - (i) inappropriate or improper conduct in an official capacity; or
 - (ii) inappropriate or improper conduct in a private capacity that reflects seriously and adversely on the office; or
- (b) has become incapable of performing the director's functions; or
- (c) has neglected the director's duties or performed the director's functions incompetently.

607 Vacancy in office

- (1) The office of a director for a water authority becomes vacant if the director—
 - (a) completes a term of office and is not reappointed; or
 - (b) resigns office under section 605; or
 - (c) becomes disqualified under section 602 from continuing as a director; or
 - (d) is removed from office under section 606.

[s 331]

- (2) Also, the office of a director for a water authority becomes vacant if the director—
 - (a) is a nominee and councillor of a local government; and
 - (b) stops being a councillor of the local government other than by defeat at an election of councillors of the local government or failure to contest an election.
- (3) In addition, the office of a director for a water authority becomes vacant if—
 - (a) the director is the nominee of a local government; and
 - (b) 6 months have elapsed from the day for holding the quadrennial election next following the director's appointment.
- (4) In this section—

nominee, of a local government, means a person nominated by the local government under section 609(2)(a) or (4)(a).

quadrennial election see the *Local Government Electoral Act 2011*.

608 Acting director

The Governor in Council, for a category 1 water authority, or the Minister, for a category 2 water authority, may appoint a person to act as director for a water authority—

- (a) during a vacancy in the office; or
- (b) during any period, or during all periods, when the director is absent from duty or from the State or is, for another reason, unable to perform the duties of the office.

609 Category 2 water authority board must seek and nominate suitable candidates

- (1) This section applies to a category 2 water authority.
- (2) At least 6 months, but not more than 12 months, before the end of a director's term of office, the board of the authority must—
 - (a) seek suitable candidates for the office; and
 - (b) give the Minister the names of suitable candidates for the office.
- (3) Also, the authority must comply with subsection (2)(a) and (b) within 3 months after a director's office becomes vacant under section 607(1)(b), (c) or (d).
- (4) The chief executive may require the board of a category 2 water authority—
 - (a) to seek suitable candidates under subsection (2)(a) in a particular way, including, for example, by asking the authority's ratepayers or another entity to elect or nominate suitable candidates; or
 - (b) to give under subsection (2)(b) a stated number of names.
- (5) If the chief executive makes a requirement under subsection (4), the chief executive must publish the requirement on the department's website.
- (6) In performing the board's functions under subsection (2), the board must have regard to providing balanced gender representation in the board.
- (7) Subsection (2) does not apply if the Minister gives the board a notice stating the Minister does not expect to appoint a person to the office of the director mentioned in subsection (2) because the

[s 331]

water authority may be amalgamated or dissolved, or its functions transferred to a local government, under part 7.

(8) In this section—

suitable candidate means an appropriately qualified person suitable for appointment under this division as a director.

609A Removal of all directors of board

The Governor in Council, for a category 1 water authority, or the Minister, for a category 2 water authority, may remove all the directors for the authority from office if the board—

- (a) does not comply with a public sector policy notified to the board by the Minister under this Act; or
- (b) does not comply with a direction given to the board by the Minister under this Act; or
- (c) does not comply with an obligation of the board under this Act for the preparation and submission of—
 - (i) a performance plan; or
 - (ii) a report under a performance plan; or
 - (iii) a corporate plan; or
- (d) does not comply with an obligation of the board under the *Financial Accountability Act 2009* for the preparation or submission of a report or plan.

609B Administration of water authority if no board

- (1) The Minister may appoint the chief executive, or another appropriately qualified person, to

administer a water authority formed on an amalgamation under section 690 until the authority's first board is appointed.

- (2) Subsection (3) applies if—
 - (a) the Governor in Council or Minister removes all the directors of a water authority's board from office; or
 - (b) for another reason, there are no directors for a water authority's board.
- (3) The Minister may appoint either of the following persons to administer the water authority until a board is appointed for the authority—
 - (a) the chief executive;
 - (b) another appropriately qualified person.
- (4) Subsection (5) applies if the Minister considers it is not practicable for the chief executive or another person to administer a new category 2 water authority formed on an amalgamation under section 690 until the authority's first board is appointed.
- (5) The Minister may direct, or the regulation providing for the amalgamation may provide, that until the new authority's first board is appointed under section 600, the new authority is to be administered by a board made up of each person who, immediately before the amalgamation, was a director for 1 or more of the water authorities that were amalgamated.

332 Amendment of s 782 (Compliance with compliance notice)

Section 782, penalty—

omit, insert—

[s 333]

Maximum penalty—1.5 times the maximum penalty for committing the offence to which the notice relates.

333 Insertion of new s 808A

After section 808—

insert—

808A Taking water in excess of volume or rate allowed under water entitlement

- (1) The holder of a water entitlement must not, in a period, take a volume of water more than the volume of water allowed to be taken under the water entitlement in the period.

Maximum penalty—1,665 penalty units.

- (2) The holder of a water entitlement must not take water at a rate more than the rate at which water is allowed to be taken under the entitlement.

Maximum penalty—1,665 penalty units.

334 Replacement of s 816 (Unauthorised water bore activities)

Section 816—

omit, insert—

816 Unauthorised water bore drilling activities

- (1) An individual must not carry out a water bore drilling activity, other than an exempt activity, unless the individual is—
 - (a) licensed under chapter 8, part 2B to carry out the activity; or
 - (b) under the constant physical supervision of an individual who is licensed under chapter 8, part 2B to carry out the activity; or

- (c) lawfully carrying out the activity under—
 - (i) the Mineral Resources Act, section 334ZQ; or
 - (ii) the *Petroleum Act 1923*, section 75K; or
 - (iii) the Petroleum and Gas Act, section 282.

Maximum penalty—1,665 penalty units.

- (2) In this section—

exempt activity means a water bore drilling activity that would not result in a water bore being more than 6m deep.

water bore drilling activity means any of the following activities—

- (a) drilling, deepening, enlarging or casing a water bore;
- (b) removing, replacing, altering or repairing the lining or screen of a water bore;
- (c) removing, replacing, altering or repairing the casing of a water bore, other than a subartesian bore casing less than 1.2m below the surface;
- (d) decommissioning a water bore.

335 Insertion of new s 829

After section 828—

insert—

829 Persons taken to have committed particular offences

- (1) This section applies if—

[s 335]

- (a) more than 1 person is the holder of a particular water entitlement; or
 - (b) more than 1 water entitlement holder takes water through particular works that have an approved meter attached.
- (2) If subsection (1)(a) applies and the taking of water purportedly under the water entitlement constitutes an offence, each water entitlement holder is taken to have committed the offence.
- (3) If subsection (1)(b) applies and the taking of water through the works constitutes an offence, each water entitlement holder is taken to have committed the offence.
- (4) However, a person (the *first person*) is not liable, under this section, for an offence constituted by the taking of the water mentioned in subsections (2) or (3) if—
- (a) another person, including, for example, another holder of the water entitlement, makes a written admission stating the other person committed the offence; or
 - (b) the chief executive is reasonably satisfied—
 - (i) the water was taken by another person, including, for example, another holder of the water entitlement; and
 - (ii) the first person was not associated with the other person at the time the offence was committed, and
 - (iii) the first person took all reasonable steps to prevent the water being taken.
- (5) For subsection (4)(b), the first person is associated with the other person if the other person is the employee, or agent of, or a contractor for, the first person.

336 Amendment of s 1014 (Regulation-making power)

Section 1014(2)(c)—

insert—

- (v) processes for ensuring faults in meters are identified and repaired; and

337 Amendment of s 1235 (Term of existing water licence)

Section 1235—

insert—

Note—

Section 213A was repealed by the *Water Reform and Other Legislation Amendment Act 2014*, section 67. See also section 1291.

338 Insertion of new ch 9, pt 12

Chapter 9—

insert—

**Part 12 Transitional provisions
for Natural Resources
and Other Legislation
Amendment Act 2019**

**Division 1 Provision relating to water
licences**

1291 Continued effect of former s 213A

- (1) This section applies in relation to a water licence the term of which was extended, under former section 213A, until 30 June 2111.

[s 338]

- (2) To remove any doubt, it is declared that the extension of the term of the water licence under former section 213A continues in effect, and has always continued in effect, despite the repeal of that section.
- (3) In this section—
former section 213A means section 213A as in force from time to time before its repeal under the *Water Reform and Other Legislation Amendment Act 2014*.

Division 2 Provisions relating to boards of water authorities

1292 Definitions for division

In this division—

former, for a provision, means as in force before the commencement.

new, for a provision, means as in force from the commencement.

1293 Number of directors comprising boards of water authorities

- (1) This section applies to a gazette notice published under former section 598(1) that was in force immediately before the commencement.
- (2) To the extent the gazette notice states the number of directors comprising a water authority's board, the notice is taken to have been made under new section 599.

1294 Directors for water authorities

- (1) This section applies if, immediately before the commencement, a person held office under former section 600 as a director for a water authority.
- (2) The person is taken to hold office under new section 600.

1295 Chairpersons of boards of water authorities

- (1) This section applies if, immediately before the commencement, a person held office under former section 601 as a chairperson of a board of a water authority.
- (2) The person is taken to hold office under new section 601.

1296 Continuation of holding of office of particular directors

- (1) This section applies if, immediately before the commencement, a director for a water authority continued holding office under former section 604(2) despite the end of the director's term of office.
- (2) The director continues holding office after the end of the director's term of office until the earlier of the following days—
 - (a) for a director for a category 1 water authority—the day the director's successor is appointed under new section 600;
 - (b) for a director for a category 2 water authority—
 - (i) the day the director's successor is appointed under new section 600;

[s 338]

- (ii) the day the Minister appoints an acting director to the office;
 - (iii) the day that is 9 months after the commencement.
- (3) For subsection (2)(b)(ii), the Minister may appoint an acting director to the office under new section 608 as if there were a vacancy in the office.

1297 Removal of director for category 2 water authority by Minister even if appointed by Governor in Council

The Minister may remove a director for a category 2 water authority under new section 606 or 609A even if the director was appointed by the Governor in Council.

1298 Vacancy in office if director nominated by local government

A reference in new section 607 to a nominee of a local government includes a person nominated by a local government under former section 598(1)(b) or 598A as a director for a water authority.

1299 Nomination or election of directors for water authority

- (1) This section applies if—
- (a) before the commencement, anything had been done or begun, under former section 598 or 598A, in relation to the election or nomination of a director for a water authority; and

- (b) immediately before the commencement, the Minister had not appointed, under former section 600(2), a person as director in relation to the election or nomination mentioned in paragraph (a).
- (2) Despite the *Acts Interpretation Act 1954*, section 20, any requirement to continue any thing related to the election or nomination of a director, or to appoint a director who is elected or nominated, does not apply.
- (3) However, if, before the commencement, the Minister had been given the name of a person elected or nominated as a director under former section 598 or 598A and the person is appropriately qualified under new section 600(2)—
 - (a) the name of the person is taken to have been given to the Minister under new section 609; and
 - (b) the person may be appointed under new section 600(2).

1300 Notice in gazette of proposed change in composition of board of water authority

- (1) This section applies if—
 - (a) before the commencement, the chief executive published, under former section 598A(2), a notice in the gazette of a proposed change in the composition of the board of a water authority; and
 - (b) immediately before the commencement, the chief executive had not published, under former section 598A(4), a notice in the gazette relating to the notice mentioned in paragraph (a).

[s 339]

- (2) Despite the *Acts Interpretation Act 1954*, section 20, the following requirements under former section 598A(4) do not apply—
- (a) the requirement to consider each properly made submission about the proposed change;
 - (b) the requirement to publish a notice in the gazette amending the notice published under former section 598.

339 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *criminal history* and *properly made submission*—
omit.
- (2) Schedule 4—
insert—

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

properly made submission means a submission that—

- (a) is made by an entity invited to make the submission; and
- (b) is in writing and signed by each entity that made the submission; and
- (c) is received on or before the last day for the making of the submission; and
- (d) states the name and address of each entity that made the submission; and

- (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds; and
- (f) is received by the person stated in the notice inviting the submission.

Queensland Government business and industry portal means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government, and that relates to business and industry.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

- (3) Schedule 4, definition *submitter*, ‘a person’—

omit, insert—

an entity

- (4) Schedule 4, definition *water sharing rules*, paragraph (a), ‘rules included’—

omit, insert—

rules that apply to the water entitlement or other authorisation that are included

- (5) Schedule 4, definition *water sharing rules*, paragraph (c), ‘rules prescribed’—

omit, insert—

rules that apply to the water licence or other authorisation that are prescribed

161 Declaration of service area

- (1) Subsection (2) applies if a local government, or a local government entity, supplies a reticulated water service or sewerage service in all or part of the local government area for the local government (a *relevant area*).
- (2) The local government must, by resolution, declare—
 - (a) the relevant area to be a service area for the reticulated water service or the sewerage service; and
 - (b) the local government, or the local government entity, to be the service provider for the service in the service area.
- (3) The declaration under subsection (2) must be made within 1 year after the local government, or the local government entity, first supplies the reticulated water service or the sewerage service in the relevant area.

Note—

See also section 676.

- (4) Also, the local government may, by resolution, declare—
 - (a) all or part of the local government area for the local government, other than a relevant area, to be a service area for a reticulated water service or sewerage service; and
 - (b) a stated service provider to be the service provider for the service in the service area.
- (5) A local government must not declare an entity, other than the local government or a local government entity, to be the service provider for a reticulated water service or sewerage service in all or part of the local government area for the local

[s 343]

- government unless the other entity agrees in writing to the declaration before the declaration is made.
- (6) A local government may, by resolution, amend a declaration made under this section by adding an area to, or removing an area from, the service area.
- (7) The local government must not amend a declaration made under this section without the written agreement of the service provider unless the service provider is the local government or a local government entity.
- (8) A resolution under this section takes effect on—
- (a) if the declaration states a day—the stated day; or
 - (b) otherwise—the day the declaration is made.
- (9) A local government must not declare an area to be a service area for a retail water service or a sewerage service if the area is already a service area for a service of the same type.
- (10) In this section—
- reticulated water service***—
- (a) means a water service that is the reticulation of water; but
 - (b) does not include—
 - (i) an irrigation service or bulk water service in any area; or
 - (ii) the supply of recycled water in any area.

344 Amendment of s 162 (Notice of declaration of service area)

Section 162—

insert—

- (c) give the regulator a copy of the notice.

345 Amendment of s 167 (Owner may ask for connection to service provider's infrastructure)

Section 167—

insert—

- (4) This section does not apply to a service provider that is a distributor-retailer.

346 Amendment of s 168 (Notice requiring connection to registered service)

Section 168—

insert—

- (5) This section does not apply to a service provider that is a distributor-retailer.

347 Amendment of s 301 (Making declaration)

Section 301(2)(c)—

omit.

348 Amendment of s 352K (Approval of plan)

Section 352K(3), from 'section 352F'—

omit, insert—

section 352F or 352S, the chief executive has not decided to approve, or refuse to approve, the plan.

[s 349]

349 Amendment of s 352Q (Amending plan by agreement)

(1) Section 352Q—

insert—

(1A) Without limiting subsection (1)(b), the owner may, within 10 business days after a change in ownership of the dam, ask the chief executive to amend the approved emergency action plan to—

- (a) record the change in ownership of the dam; and
- (b) make other changes to the plan required because of the change in ownership.

(2) Section 352Q(4), ‘given the owner notice of the decision’—

omit, insert—

decided to approve or refuse to approve the amendment

350 Amendment of s 352S (Renewal of plan)

(1) Section 352S(2), ‘1 month’—

omit, insert—

2 months

(2) Section 352S—

insert—

(3) The chief executive must decide to approve or refuse to approve the new emergency action plan under subdivision 4.

351 Replacement of s 366 (Sections 366–369 not used)

Section 366—

omit, insert—

366 Changes in dam ownership

- (1) This section applies if there is a change in ownership of—
 - (a) a referable dam; or
 - (b) a dam that has been failure impact assessed under this part and of which a further failure impact assessment is required to be completed under section 345(2)(b).
- (2) The former owner of the dam must, within 10 business days after the change in ownership of the dam, give the chief executive notice of the change.

Note—

Under chapter 5, part 8, division 2, the chief executive, regulator or an authorised officer may give a person a compliance notice if the chief executive, regulator or authorised officer reasonably believes the person is contravening a provision of this Act.

- (3) The notice must state—
 - (a) the name of the dam; and
 - (b) the date of the change in ownership; and
 - (c) the real property description of the land on which the dam is situated; and
 - (d) contact details for the new owner, including, for example, the new owner's name and address; and
 - (e) if the new owner is a corporation—
 - (i) the new owner's ABN or ACN; and
 - (ii) the name of the new owner's chief executive officer (however described).
- (4) The former owner of the dam must ensure all relevant documentation for the dam is given to the new owner of the dam within 10 business days

[s 352]

after the change in ownership of the dam.

Note—

Under chapter 5, part 8, division 2, the chief executive, regulator or an authorised officer may give a person a compliance notice if the chief executive, regulator or authorised officer reasonably believes the person is contravening a provision of this Act.

(5) In this section—

relevant documentation, for a dam, means—

- (a) documentation required for the dam under chapter 4, including, for example, documentation required for the dam under a safety condition; or
- (b) documentation under chapter 5 that relates to the dam, including, for example, a compliance notice relating to the dam.

367 Sections 367–369 not used

See editor’s note for section 1.

352 Amendment of s 390 (Minister may declare temporary full supply level)

Section 390(4)(b)(ii), ‘6 months’—

omit, insert—

1 year

353 Insertion of new ch 10, pt 12

Chapter 10—

insert—

Part 12 Transitional provisions for Natural Resources and Other Legislation Amendment Act 2019

675 Definition for part

In this part—

former, in relation to a provision, means as in force from time to time before the commencement of the section in which the term is used.

676 Application of new s 161

- (1) This section applies if, immediately before the commencement, a local government or a local government entity supplied a reticulated water service or sewerage service (the *service*) in the local government area for the local government.
- (2) If the local government declared a service area for the service under former section 161(1)—
 - (a) the service area is taken to be declared, under new section 161(2), as a service area for the service; and
 - (b) the local government or the local government entity is taken to be declared, under new section 161(2), as the service provider for the service in the service area.
- (3) If the local government had not declared a service area for the service under former section 161(1)—
 - (a) new section 161(3) does not apply to the local government; and
 - (b) the local government must make a declaration in relation to the service under

[s 354]

new section 161(2) within 1 year of the commencement.

(4) In this section—

new, in relation to a provision, means as in force on the commencement.

reticulated water service see section 161(10).

677 Continued application of former s 390

Former section 390(4)(b)(ii) continues to apply in relation to a declaration made under that section before the commencement.

354 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definition *service provider*—

omit.

(2) Schedule 3—

insert—

local government entity see the *Local Government Act 2009*, section 216A.

service provider—

(a) of a retail water service or sewerage service in a service area, for chapter 2, part 5, see section 160; or

(b) generally—means a water service provider or a sewerage service provider.

(3) Schedule 3, definition *sewerage service*, paragraph 2(b)(ii), ‘under the *Body Corporate and Community Management Act 1997*’—

omit, insert—

, however described, established under an Act

(4) Schedule 3, definition *sewerage service*, paragraph 2(b)(ii)—

insert—

Examples of body corporates for community title schemes—

- a body corporate under the *Body Corporate and Community Management Act 1997*
- a community body corporate or a precinct body corporate under the *Mixed Use Development Act 1993*
- the primary thoroughfare body corporate or the principal body corporate under the *Sanctuary Cove Resort Act 1985*

(5) Schedule 3, definition *water service*, paragraph 2(b)(ii), ‘under the *Body Corporate and Community Management Act 1997*’—

omit, insert—

, however described, established under an Act

(6) Schedule 3, definition *water service*, paragraph 2(b)(ii)—

insert—

Examples of body corporates for community title schemes—

- a body corporate under the *Body Corporate and Community Management Act 1997*
- a community body corporate or a precinct body corporate under the *Mixed Use Development Act 1993*
- the primary thoroughfare body corporate or the principal body corporate under the *Sanctuary Cove Resort Act 1985*

Chapter 7 Amendments of other Acts

Part 1 Amendment of Electricity Act 1994

355 Act amended

This part amends the *Electricity Act 1994*.

356 Amendment of s 259A (Regulation may declare a State electricity entity)

Section 259A, heading, after ‘entity’—

insert—

for particular purposes

357 Amendment of sch 5 (Dictionary)

Schedule 5, definition *State electricity entity*, paragraph (b)—

omit, insert—

- (b) an entity that is a GOC, a GOC subsidiary or a government company if—
 - (i) the activities of the entity relate to the electricity industry, or the national electricity market within the meaning of the National Electricity (Queensland) Law; and
 - (ii) the entity is declared by regulation to be a State electricity entity; or
- (c) Ergon Energy Retail.

Part 1A Amendment of Planning Act 2016

357A Act amended

This part amends the *Planning Act 2016*.

357B Insertion of new ch 8, pt 6

Chapter 8—

insert—

Part 6 Validation and transitional provisions for particular matters

348 Validation of particular development approvals

- (1) This section applies in relation to a development approval, whether or not the approval is still in force, that—
 - (a) was granted or amended on or after 15 September 2000 but before the commencement; and
 - (b) relates, or related, to the clearing of native vegetation.
- (2) The grant or amendment of the development approval is, and is taken to have always been, as valid as it would have been if a reference to infrastructure in a relevant provision always included a reference to a building, or other structure, built or used for any purpose.
- (3) Anything done under the development approval is, and is taken to have always been, as valid and lawful as it would have been if a reference to

[s 357B]

infrastructure in a relevant provision always included a reference to a building, or other structure, built or used for any purpose.

(4) To remove any doubt it is declared that a reference in this section to the grant or amendment of the development approval includes the imposition of conditions on the approval.

(5) In this section—

relevant provision, in relation to the grant or amendment of a development approval, means—

(a) if the repealed *Integrated Planning Act 1997*, as in force before 4 October 2004, applied to the grant or amendment—the repealed *Integrated Planning Act 1997*, schedule 8, section 22, definitions *essential management* and *routine management*; or

(b) if the repealed *Integrated Planning Act 1997*, as in force on or after 4 October 2004, applied to the grant or amendment—the repealed *Integrated Planning Act 1997*, schedule 10, definitions *essential management* and *routine management*; or

(c) if the repealed *Sustainable Planning Act 2009* applied to the grant or amendment—the repealed *Sustainable Planning Regulation 2009*, schedule 26, definitions *essential management* and *routine management*; or

(d) if this Act applied to the grant or amendment—the *Planning Regulation 2017*, schedule 24, definitions *essential management* and *routine management*.

349 Particular existing applications

- (1) This section applies in relation to an application for the grant or amendment of a development approval—
 - (a) made on or after 15 September 2000 under this Act, the repealed *Sustainable Planning Act 2009* or the repealed *Integrated Planning Act 1997*; but
 - (b) not decided before the commencement.
- (2) For the purpose of deciding the application, a reference to infrastructure in a relevant provision includes, and is taken to have always included, a reference to a building, or other structure, built or used for any purpose.
- (3) In this section—

deciding, an application, includes dealing with the application.

relevant provision, in relation to an application for the grant or amendment of a development approval, means—

 - (a) if the repealed *Integrated Planning Act 1997*, as in force before 4 October 2004, applies to deciding the application—the repealed *Integrated Planning Act 1997*, schedule 8, section 22, definitions *essential management* and *routine management*; or
 - (b) if the repealed *Integrated Planning Act 1997*, as in force on or after 4 October 2004, applies to deciding the application—the repealed *Integrated Planning Act 1997*, schedule 10, definitions *essential management* and *routine management*; or
 - (c) if the repealed *Sustainable Planning Act 2009* applies to deciding the application—

[s 357B]

the repealed *Sustainable Planning Regulation 2009*, schedule 26, definitions *essential management* and *routine management*; or

- (d) if this Act applies to deciding the application—the *Planning Regulation 2017*, schedule 24, definitions *essential management* and *routine management*.

350 Validation of particular operational work

- (1) This section applies in relation to operational work, that is the clearing of native vegetation, if the work was carried out—
- (a) on or after 15 September 2000 but before the commencement; and
- (b) without a development approval.
- (2) The carrying out of the work without a development approval is, and is taken to have always been, as valid and lawful as it would have been if, at the time the work was carried out, a reference to infrastructure in a relevant provision included a reference to a building, or other structure, built or used for any purpose.
- (3) In this section—
- relevant provision*** means—
- (a) in relation to operational work carried out before 4 October 2004—the repealed *Integrated Planning Act 1997*, schedule 8, section 22, definitions *essential management* and *routine management*; or
- (b) in relation to operational work carried out on or after 4 October 2004 but before 18 December 2009—the repealed *Integrated Planning Act 1997*, schedule 10, definitions

essential management and *routine management*; or

- (c) in relation to operational work carried out on or after 18 December 2009 but before 3 July 2017—the repealed *Sustainable Planning Regulation 2009*, schedule 26, definitions *essential management* and *routine management*; or
- (d) in relation to operational work carried out on or after 3 July 2017—the *Planning Regulation 2017*, schedule 24, definitions *essential management* and *routine management*.

Part 1B Amendment of Planning Regulation 2017

357C Regulation amended

This part amends the *Planning Regulation 2017*.

357D Amendment of sch 24 (Dictionary)

Schedule 24—

insert—

infrastructure, for the definitions *essential management* and *routine management*, includes a building, or other structure, built or used for any purpose.

Note—

See also schedule 2 of the Act, definition *infrastructure*.

359C Amendment of pt 6, hdg (Transitional and declaratory provisions)

Part 6, heading, ‘and declaratory provisions’—

omit, insert—

, declaratory and validation provisions

359D Insertion of new pt 6, div 14

Part 6—

insert—

Division 14 Validation provisions for particular matters

145 Definition for part

In this part—

amended extractive industry definition means the schedule, definition *extractive industry*, as in force immediately after the commencement.

146 Validation of particular decisions under s 22A

- (1) This section applies in relation to a decision of the chief executive under section 22A made on or after 21 May 2004 but before the commencement.
- (2) The decision is, and is taken to have always been, as valid as it would have been if, at the time the decision was made—
 - (a) a reference to built infrastructure in section 22A or the schedule included a reference to a building, or other structure, built or used for any purpose; and

[s 359D]

- (b) a reference to extractive industry in section 22A had the meaning given by the amended extractive industry definition.
- (3) Anything done as a result of the decision is, and is taken to have always been, as valid and lawful as it would have been if, at the time the decision was made—
 - (a) a reference to built infrastructure in section 22A or the schedule included a reference to a building, or other structure, built or used for any purpose; and
 - (b) a reference to extractive industry in section 22A had the meaning given by the amended extractive industry definition.

147 Validation of use of particular forest products

- (1) This section applies in relation to a forest product cleared on or after 21 May 2004 but before the commencement.
- (2) The use of the forest product is, and is taken to have always been, as valid and lawful as it would have been if, at the time the product was used, a reference to infrastructure in section 70A(5) included a reference to a building, or other structure, built or used for any purpose.

148 Validation of accepted development vegetation clearing code and particular activities

- (1) This section applies in relation to an accepted development vegetation clearing code made before the commencement.
- (2) The making of the code is, and is taken to have always been, as valid as it would have been if, at

the time the code was made—

- (a) a reference to built infrastructure in the schedule, definition *relevant infrastructure activities* included a reference to a building, or other structure, built or used for any purpose; and
 - (b) a reference to extractive industry in section 19O had the meaning given by the amended extractive industry definition.
- (3) Activity to which the code applied or applies is, and is taken to have always been, as valid and lawful as it would have been if, at the time the code was made—
- (a) a reference to built infrastructure in the schedule, definition *relevant infrastructure activities* included a reference to a building, or other structure, built or used for any purpose; and
 - (b) a reference to extractive industry in section 19O had the meaning given by the amended extractive industry definition.

359E Amendment of schedule (Dictionary)

- (1) Schedule—

insert—

built infrastructure includes a building, or other structure, built or used for any purpose.

- (2) Schedule, definition *extractive industry*, paragraph (b), example, ‘infrastructure’—

omit, insert—

structures

[s 360]

Part 3 **Minor and consequential amendments**

360 **Legislation amended**

Schedule 1 amends the legislation it mentions.

Schedule 1 Legislation amended

section 360

Nature Conservation Act 1992

1 Section 43L(2)(a), ‘Minister administering the *Land Act 1994*’—

omit, insert—

chief executive (lands)

Water Act 2000

1 Section 40A(5), ‘106(4)’—

omit, insert—

106(3)

2 Section 114(7), ‘person’—

omit, insert—

entity

3 Section 119(2)(a), ‘*Land Protection (Pest and Stock Route Management) Act 2002*’—

omit, insert—

Stock Route Management Act 2002

4 Section 691(1)(c), ‘700 or’—

omit.

5 Section 784(1)(c), ‘934’—

omit, insert—

786

6 Section 972H(2), ‘persons’—

omit, insert—

entities

7 Section 972H(2) and (3), ‘the person’—

omit, insert—

the entity

8 Section 972H(2)(b), ‘a person’—

omit, insert—

an entity

9 Section 1207(4), note—

omit, insert—

Note—

Section 37 was repealed by the *Water Reform and Other Legislation Amendment Act 2014*, section 67. For notices of works and water use, see section 36.

10 Section 1218(3)—

insert—

Note—

Section 206 was repealed by the *Water Reform and Other Legislation Amendment Act 2014*, section 67. For applications for water licences, see section 107.

11 Schedule 4, definition *owner's notice*, '37(2)'—

omit, insert—

36(2)

Water Regulation 2016

1 Schedule 19, definition *Queensland Government business and industry portal*—

omit.

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