



Queensland

# **Land and Other Legislation Amendment Act 2007**

**Act No. 19 of 2007**





Queensland

# Land and Other Legislation Amendment Act 2007

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	18
2	Commencement . . . . .	18
<b>Part 2</b>	<b>Amendment of Acquisition of Land Act 1967</b>	
3	Act amended in pt 2 . . . . .	18
4	Amendment of s 2 (Definitions) . . . . .	18
5	Amendment of s 12 (Effect of gazette resumption notice) . . . . .	19
6	Insertion of new s 12B . . . . .	19
	12B Particular land may be dedicated as road . . . . .	19
<b>Part 3</b>	<b>Amendment of Integrated Planning Act 1997</b>	
7	Act amended in pt 3 . . . . .	20
8	Amendment of sch 8 (Assessable development and self-assessable development) . . . . .	20
9	Amendment of sch 10 (Dictionary) . . . . .	20
<b>Part 4</b>	<b>Amendment of Land Act 1994</b>	
10	Act amended in pt 4 . . . . .	21
11	Amendment of s 8 (Definitions) . . . . .	22
12	Amendment of s 14 (Governor in Council may grant land) . . . . .	22
13	Amendment of s 15 (Governor in Council may lease land) . . . . .	22
14	Amendment of s 16 (Deciding appropriate tenure) . . . . .	23
15	Amendment of s 17 (Granting land to the State) . . . . .	23
16	Replacement of s 18 (Governor in Council may exchange land) . . . . .	24
	18 Exchanging land . . . . .	24
17	Amendment of s 23 (Reservation for public purposes) . . . . .	24
18	Insertion of new s 23A . . . . .	25

	23A	Floating reservation on plan of subdivision . . . . .	25
19		Amendment of s 24 (Disposal of reservations no longer needed)	26
20		Amendment of s 25 (Disposal of reservations by sale) . . . . .	27
21		Insertion of new s 26A . . . . .	27
	26A	Disposal of redundant reservation . . . . .	27
22		Amendment of s 30 (Object) . . . . .	28
23		Replacement of s 31 (Dedication and adjustment of reserves) . .	28
		Subdivision 1 Reserves generally	
	31	Dedication of reserve . . . . .	28
	31A	Changing boundaries of reserve . . . . .	29
	31B	Changing community purpose . . . . .	29
	31C	Applying for dedication or adjustment of reserve . . . .	30
	31D	Notice of proposal to dedicate or adjust reserve . . . .	30
	31E	Submissions . . . . .	31
	31F	Notice of registration of action in relation to reserve .	32
24		Amendment of s 33 (Revocation of reserves) . . . . .	32
25		Replacement of s 34 (Revocation of reserve cancels appointments, leases and permits) . . . . .	32
	34	Applying to revoke dedication of reserve . . . . .	33
	34A	Notice of proposal to revoke dedication of reserve . .	33
	34B	Submissions . . . . .	33
	34C	Removal of interests before revocation . . . . .	34
	34D	Registration revokes dedication of reserve. . . . .	34
	34E	Notice of revocation . . . . .	35
	34F	Effect of revocation . . . . .	35
	34G	Person to give up possession. . . . .	36
	34H	Dealing with improvements . . . . .	36
		Subdivision 2 Operational reserves	
	34I	Applying for deed of grant . . . . .	37
	34J	Notice of proposal to issue deed of grant. . . . .	37
	34K	Submissions . . . . .	38
	34L	Removal of interests before grant. . . . .	38
	34M	Registration of deed of grant revokes reservation and setting apart . . . . .	38
	34N	Notice of registration of deed of grant . . . . .	38
	34O	Effect of revocation . . . . .	39
26		Amendment of s 35 (Use for community purposes of land granted in trust) . . . . .	39

---

27	Amendment of s 36 (Amalgamating land with common purposes) . . . . .	40
28	Amendment of s 37 (Removing area from deed of grant in trust)	41
29	Amendment of s 38 (Cancelling a deed of grant in trust) . . . . .	41
30	Insertion of new ss 38A–38G . . . . .	41
	38A Applying for additional community purpose, amalgamation or cancellation. . . . .	41
	38B Notice of proposal to add community purpose, amalgamate land or cancel . . . . .	42
	38C Submissions . . . . .	43
	38D Notice of registration of action . . . . .	43
	38E Effect of cancellation . . . . .	44
	38F Person to give up possession. . . . .	45
	38G Dealing with improvements . . . . .	45
31	Insertion of new s 42A . . . . .	46
	42A Amalgamating unallocated State land with existing deeds of grant in trust. . . . .	46
32	Amendment of s 43 (Only Parliament may delete land from or cancel an existing deed of grant in trust) . . . . .	46
33	Amendment of s 44 (Appointing trustees) . . . . .	46
34	Amendment of s 45 (Details of trustees) . . . . .	47
35	Amendment of s 48 (Trustees to give information and allow inspection of records) . . . . .	48
36	Amendment of s 50 (Vacation of office by trustee) . . . . .	48
37	Amendment of s 51 (Removal of trustees) . . . . .	48
38	Amendment of s 52 (General powers of trustee) . . . . .	48
39	Insertion of new s 53A . . . . .	49
	53A State trustee powers and delegation . . . . .	49
40	Amendment of s 55 (Power to surrender) . . . . .	50
41	Insertion of new ss 55A–55H . . . . .	50
	55A Applying to surrender . . . . .	50
	55B Notice of proposal to approve surrender . . . . .	50
	55C Submissions . . . . .	51
	55D Registration surrenders deed of grant in trust . . . . .	51
	55E Notice of surrender . . . . .	52
	55F Effect of surrender . . . . .	52
	55G Person to give up possession on surrender . . . . .	53
	55H Dealing with improvements . . . . .	53
42	Amendment of s 57 (Trustee leases) . . . . .	54

43	Amendment of s 58 (Other transactions relating to trustee leases) . . . . .	54
44	Amendment of s 60 (Trustee permits) . . . . .	55
45	Amendment of s 63 (Rent to be charged) . . . . .	56
46	Amendment of s 64 (Minister may dispense with approval) . . . . .	56
47	Amendment of s 74 (Minister may start winding-up) . . . . .	57
48	Amendment of s 78 (Winding-up may continue after revocation, cancellation or sale) . . . . .	57
49	Replacement of s 94 (Dedication of road by gazette notice) . . . . .	58
	94 Dedication of road . . . . .	58
50	Insertion of new s 97A . . . . .	58
	97A Definitions for div 2 . . . . .	58
51	Amendment of s 98 (Closure of road by gazette notice) . . . . .	59
52	Replacement of s 99 (Application to close road) . . . . .	59
	99 Application to close road . . . . .	59
53	Amendment of s 100 (Public notice of closure) . . . . .	60
54	Replacement of ch 3, pt 2, divs 4 and 5 . . . . .	61
	Division 4 Permanently closed roads	
	108 Permanent closure of road . . . . .	61
	109 Closed road may be dealt with as lot or amalgamated with adjoining land . . . . .	61
	109A Simultaneous opening and closing of roads—deed of grant . . . . .	62
	109B Simultaneous opening and closure of roads—trust land or lease land . . . . .	63
	109C Buying or leasing land if closed road amalgamated with adjoining land . . . . .	64
55	Renumbering of ch 3, pt 2, div 6 (Building of roads in State developments) . . . . .	65
56	Amendment of s 115 (Conditions of sale) . . . . .	65
57	Insertion of new s 120A . . . . .	65
	120A Applying for interest in land without competition . . . . .	65
58	Amendment of s 122 (Deeds of grant of unallocated State land) . . . . .	66
59	Amendment of s 127 (Reclaimed land) . . . . .	66
60	Amendment of s 129 (Lease for significant development) . . . . .	66
61	Insertion of new s 130A . . . . .	67
	130A Change of financial and managerial capabilities of lessee of lease for significant development . . . . .	67
62	Amendment of s 136 (Conditions of offer and lease) . . . . .	69

---

63	Insertion of new s 138A . . . . .	70
	138A Restriction on commencement of lease or permit . . .	70
64	Amendment of s 144 (Division applies only to leases for grazing and agriculture) . . . . .	70
65	Replacement of s 153 (Leases must be used for purpose issued) . . . . .	71
	153 Lease must state its purpose . . . . .	71
66	Amendment of s 154 (Minister may approve additional purposes) . . . . .	71
67	Amendment of s 155 (Length of term leases) . . . . .	72
68	Insertion of new ss 155A–155E . . . . .	72
	155A Extending particular term leases for a term of up to 40 years . . . . .	73
	155B Extending particular term leases for a term of up to 50 years . . . . .	73
	155C Registering and taking of effect of extension . . . . .	74
	155D Power to reduce term of extended term lease . . . . .	75
	155E Provisions about reduction . . . . .	75
69	Insertion of new s 157A . . . . .	76
	157A Chief executive’s approval required for renewal . . . . .	76
70	Amendment of s 158 (Application to renew lease) . . . . .	76
71	Amendment of s 159 (Issues the Minister must consider) . . . . .	77
72	Insertion of new s 159A . . . . .	78
	159A Provisions for decision about most appropriate form of tenure . . . . .	78
73	Amendment of s 160 (Written notice of Minister’s decision) . . . . .	79
74	Insertion of new s 160A . . . . .	79
	160A Land management agreement condition for particular offers . . . . .	79
75	Replacement of s 162 (Acceptance of offer) . . . . .	80
	162 Issuing of new lease . . . . .	80
	162A Conditions imposed on particular new leases . . . . .	80
76	Insertion of new s 165A . . . . .	81
	165A Chief executive’s approval required for conversion. . .	81
77	Amendment of s 166 (Application to convert lease) . . . . .	81
78	Amendment of s 167 (Issues the Minister must consider) . . . . .	82
79	Amendment of s 168 (Written notice of Minister’s decision) . . . . .	83
80	Insertion of new s 168A . . . . .	84

---

	168A	Land management agreement for new perpetual lease . . . . .	84
81		Amendment of s 169 (Conditions of freehold offer) . . . . .	84
82		Amendment of s 170 (Purchase price if deed of grant offered) . . . . .	84
83		Replacement of s 172 (Acceptance of offer) . . . . .	85
	172	Issuing of new tenure . . . . .	85
84		Insertion of new s 173A . . . . .	85
	173A	Short term extension . . . . .	86
85		Amendment, relocation and renumbering of s 175 (Forest entitlement areas). . . . .	86
86		Relocation and renumbering of s 176 (Effect of resumption of forest entitlement area). . . . .	86
87		Insertion of new ch 4, pt 3, divs 4–7. . . . .	86
	Division 4	Subdividing leases	
	175	When lease may be subdivided . . . . .	86
	176	Application to subdivide . . . . .	87
	176A	General provisions for deciding application . . . . .	87
	176B	Criteria for deciding application . . . . .	88
	176C	Specific grounds for refusal . . . . .	88
	176D	Notice of decision. . . . .	88
	176E	Appeal against refusal . . . . .	89
	176F	Acceptance of subdivision offer . . . . .	89
	176G	Issuing of new leases . . . . .	89
	176H	Restriction on transferring new leases . . . . .	89
	176I	Power to waive fees if chief executive requested application . . . . .	90
	Division 5	Amalgamating leases	
	176J	When leases may be amalgamated . . . . .	90
	176K	Application to amalgamate . . . . .	90
	176L	General provisions for deciding application . . . . .	91
	176M	Criteria for deciding application . . . . .	91
	176N	Roads. . . . .	92
	176O	Specific grounds for refusal . . . . .	92
	176P	Notice of decision. . . . .	92
	176Q	Appeal against refusal . . . . .	93
	176R	Acceptance of amalgamation offer . . . . .	93
	176S	Issuing of amalgamated lease . . . . .	93

	176T	Power to waive fees if chief executive requested application . . . . .	93
	Division 6	Land management agreements	
	176U	Making and registration of agreement about land management . . . . .	94
	176V	Purposes of a land management agreement . . . . .	94
	176W	Content of land management agreement . . . . .	95
	176X	Reviewing land management agreement . . . . .	95
	Division 7	Miscellaneous provisions	
	176Y	Part does not affect amounts owing relating to lease . . . . .	95
	176Z	When payment obligations end if lease ends under part . . . . .	96
	176ZA	Overpayments relating to former lease . . . . .	96
88		Amendment of ch 4, pt 4 hdg (Permits) . . . . .	96
89		Amendment of s 177 (Chief executive may issue permit) . . . . .	96
90		Insertion of new ss 177A–177D . . . . .	97
	177A	Applying for permit . . . . .	97
	177B	Notice of intention to issue permit . . . . .	97
	177C	Submissions . . . . .	98
	177D	Notice of permit . . . . .	98
91		Replacement of s 180 (Cancellation or surrender of permit) . . . . .	99
	180	When permit may be cancelled or surrendered . . . . .	99
	180A	Applying to cancel or surrender permit . . . . .	99
	180B	Notice of proposal to cancel or approve surrender . . . . .	99
	180C	Submissions . . . . .	100
	180D	When cancellation or surrender is effective . . . . .	101
	180E	Notice about cancellation or surrender . . . . .	101
	180F	Effect of cancellation or surrender . . . . .	101
	180G	Permittee to give up possession on cancellation or surrender . . . . .	102
	180H	Dealing with improvements . . . . .	102
92		Amendment of s 181 (Rent periods) . . . . .	102
93		Amendment of s 183 (Rent payable generally) . . . . .	102
94		Amendment of s 183A (Rent payable in special cases) . . . . .	103
95		Insertion of new s 183AA . . . . .	103
	183AA	Protection against particular undue rental increases . . . . .	103
96		Amendment of s 185 (Development and Investigation concessions) . . . . .	105

97	Amendment of s 190 (When rent is owing) . . . . .	105
98	Amendment of s 192 (Deferral of rent and instalment payments for hardship) . . . . .	105
99	Amendment of s 195 (Penalty interest on outstanding rent and instalments) . . . . .	106
100	Amendment of s 196 (Minister may take action for non-payment) . . . . .	106
101	Amendment of s 197 (Notice of intention to cancel). . . . .	106
102	Amendment of s 198 (Minister may reinstate if payment made) . . . . .	107
103	Insertion of new ch 5, pt 1A . . . . .	107
	Part 1A            Future conservation areas	
	198A    Management principles . . . . .	107
	198B    Protection of reservation for future conservation area . . . . .	108
104	Replacement of ch 5, pt 2, div 1 hdg (General conditions) . . . . .	108
	Division 1        General mandatory conditions	
	198C    Operation of div 1 . . . . .	108
	198D    Mandatory conditions need not be registered . . . . .	109
105	Amendment of s 199 (Duty of care condition) . . . . .	109
106	Insertion of new s 199A . . . . .	109
	199A    Land may be used only for tenure's purpose . . . . .	109
107	Replacement of ch 5, pt 2, div 2 hdg (Other conditions) . . . . .	110
	Division 2        Imposed conditions	
	202A    Operation of div 2 . . . . .	110
	202B    Imposed condition must be registered . . . . .	110
108	Amendment of s 203 (Typical conditions). . . . .	110
109	Replacement of ch 5, pt 2, div 3 hdg (Changing conditions) . . . . .	111
110	Replacement of s 210 (Changing conditions) . . . . .	111
	210      Power to change imposed condition of lease, licence or permit by agreement . . . . .	111
111	Replacement of s 211 (Conditions must be reviewed) . . . . .	112
	211      Reviewing imposed conditions of lease . . . . .	112
112	Amendment of s 212 (Minister may change conditions after review) . . . . .	112
113	Replacement of ss 213 and 214. . . . .	113
	213      Obligation to perform conditions. . . . .	113
	Division 5        Remedial action	
	214      Minister's power to give remedial action notice . . . . .	114
	214A    Steps required before giving remedial action notice. . . . .	115

	214B	Appeal against decision to give remedial action notice . . . . .	116
	214C	Additional condition of lease or licence to take required remedial action . . . . .	116
	214D	Failure to comply with remedial action notice . . . . .	116
	214E	Power to reduce term of lease or impose additional conditions . . . . .	117
	214F	Provisions about reduction or additional conditions . . . . .	117
114		Amendment of s 234 (When lease may be forfeited) . . . . .	118
115		Amendment of ch 5, pt 4, div 2 hdg (Forfeiture of leases, generally) . . . . .	118
116		Replacement of s 234A (Non-application of div 2) . . . . .	118
	234A	Application of div 2 . . . . .	119
117		Amendment of s 235 (Notice of forfeiture for outstanding amounts) . . . . .	119
118		Amendment of s 236 (Minister's options if amount unpaid) . . . . .	119
119		Insertion of new ch 5, pt 4, div 2A hdg and s 237A . . . . .	119
	Division 2A	Forfeiture of leases by referral to court	
	237A	Application of div 2A . . . . .	119
120		Amendment of s 238 (Application to the court for forfeiture) . . . . .	120
121		Amendment of s 239 (Governor in Council's options if court decides on forfeiture) . . . . .	120
122		Omission of s 240 (Publication of notice of forfeiture) . . . . .	121
123		Amendment of ch 5, pt 4, div 3, hdg (Forfeiture of leases for repeated convictions for vegetation clearing offences). . . . .	121
124		Omission of s 240E (Publication of notice of forfeiture) . . . . .	121
125		Insertion of new ch 5, pt 4, div 3A . . . . .	121
	Division 3A	Sale of lease instead of forfeiture	
	Subdivision 1	Sale by lessee	
	240E	Sale by lessee . . . . .	121
	Subdivision 2	Sale by mortgagee	
	Subdivision 3	Sale by local government	
	240G	Application . . . . .	122
	240H	Notice of approval. . . . .	122
	240I	Sale of lease. . . . .	122
	Subdivision 4	Sale by chief executive	
	240J	Application of sdiv 4 . . . . .	123
	240K	Notice that chief executive may sell . . . . .	124
	240L	Entry into possession and sale . . . . .	124

	240M	Transition to sale agreement . . . . .	125
	240N	Advice about entering transition to sale agreement . .	126
	240O	Making and registration of transition to sale agreement . . . . .	128
	240P	Auction or sale of lease . . . . .	128
	240Q	Disposal of proceeds of sale . . . . .	129
	240R	Protection from liability . . . . .	130
126		Replacement of ch 5, pt 4, div 4 hdg (Effect of forfeiture) . . . . .	130
127		Insertion of new s 240S . . . . .	130
	240S	Notice of forfeiture . . . . .	130
128		Amendment of s 241 (Effect of forfeiture) . . . . .	131
129		Amendment of s 243 (Improvements on forfeited lease) . . . . .	131
130		Amendment of s 244 (Sale by mortgagee instead of forfeiture) . .	131
131		Amendment of s 246 (Application of division) . . . . .	132
132		Amendment of s 249 (Payment by the State for improvements) .	132
133		Insertion of new ch 5, pt 6 . . . . .	132
	Part 6	Protection of monitoring sites	
	252	Prohibition on interfering with monitoring marker or device . . . . .	133
	253	Evidentiary provision for proceedings under s 252 . .	133
134		Amendment of s 275 (Registers comprising land registry) . . . . .	134
135		Amendment of s 276 (Registers to be kept by chief executive) . .	134
136		Insertion of new s 277A . . . . .	134
	277A	Registration of document evidencing tenure . . . . .	134
137		Amendment of s 278 (Particulars that must be recorded) . . . . .	135
138		Replacement of s 279 (Recording issue and end of tenures) . . .	135
	279	Registration of land management agreements and transition to sale agreements . . . . .	135
139		Amendment of s 286B (Requiring plan of survey to be lodged) . .	136
140		Amendment of s 287 (Registered documents must comply with particular requirements) . . . . .	136
141		Amendment of s 290F (Plan of subdivision may be registered) . .	136
142		Insertion of new s 290FA . . . . .	136
	290FA	Taking effect of plan of subdivision . . . . .	136
143		Amendment of s 290J (Requirements for registration of plan of subdivision) . . . . .	137
144		Replacement of s 290K (Particulars to be recorded on registration of plan) . . . . .	138
	290JA	Dedication of public use land in plan . . . . .	139

	290JB	Access for public use land . . . . .	139
	290K	Particulars to be recorded when registered plan takes effect . . . . .	140
145		Amendment of s 294 (Chief executive may require public notice to be given of certain proposed action) . . . . .	140
146		Amendment of s 294B (Building management statement may be registered) . . . . .	140
147		Omission of s 296 (Tenure document to be returned to land registry) . . . . .	141
148		Amendment of s 299 (When a document is registered) . . . . .	141
149		Insertion of new s 299A . . . . .	141
	299A	No registration in absence of required approval or consent of Minister . . . . .	141
150		Omission of s 312 (Substitute document) . . . . .	142
151		Insertion of new s 318A . . . . .	142
	318A	Minister may lodge mandatory standard terms document . . . . .	142
152		Insertion of new s 320A . . . . .	143
	320A	Conflict with mandatory standard terms document . .	143
153		Amendment of s 321 (Withdrawal or cancellation of standard terms document) . . . . .	143
154		Amendment of s 322 (Requirements for transfers) . . . . .	143
155		Insertion of new s 322A . . . . .	144
	322A	Severing joint tenancy by transfer . . . . .	144
156		Amendment of s 325 (Effect of registration of transfer) . . . . .	145
157		Insertion of new s 326A . . . . .	146
	326A	Disclosure of information to proposed transferee of lease or licensee . . . . .	146
158		Replacement of s 327 (Surrender of lease or deed of grant) . . . .	146
	327	Absolute surrender of deed of grant . . . . .	146
	327A	Surrender of lease . . . . .	147
	327B	Applying to surrender . . . . .	147
	327C	Notice of proposal to approve surrender of lease. . . .	147
	327D	Submissions against proposal to approve surrender .	148
	327E	Registration surrenders lease . . . . .	148
	327F	Notice of surrender . . . . .	148
	327G	Effect of surrender . . . . .	149
	327H	Person to give up possession on surrender . . . . .	149
	327I	Dealing with improvements . . . . .	149

159	Amendment of s 328 (Surrender of subleases) . . . . .	150
160	Amendment of s 329 (Notice of surrender needed) . . . . .	150
161	Amendment of s 330 (Requirements for effective surrender). . . . .	150
162	Amendment of s 332 (Subleases require Minister's approval) . . . . .	151
163	Replacement of s 333 (General authority to sublease) . . . . .	151
	333 General authority to lessee for particular dealings . . . . .	151
164	Amendment of s 334 (When subleasing is totally prohibited). . . . .	152
165	Amendment of s 334A (Application to sub-subleases). . . . .	152
166	Insertion of new ch 6, pt 4, div 3A . . . . .	153
	Division 3A Mediation for disputes about terms of particular subleases	
	339A Application of div 3A . . . . .	153
	339B Mediation . . . . .	153
167	Amendment of s 346 (Sale of mortgaged lease) . . . . .	155
168	Omission of ch 6, pt 4, divs 5 and 6 . . . . .	155
169	Amendment of s 358 (Changing deeds of grant—change in description or boundary of land). . . . .	155
170	Insertion of new s 358C . . . . .	156
	358C Correction of minor error in deed of grant . . . . .	156
171	Amendment of s 359 (Correcting or cancelling deeds of grant) . . . . .	156
172	Amendment of s 360 (Governor in Council may change leases) . . . . .	156
173	Insertion of new ss 360A–360F . . . . .	158
	360A Minister may change term leases, other than State leases, or perpetual leases . . . . .	158
	360B Minister may change State lease . . . . .	159
	360C Applying to amend description of lease . . . . .	159
	360D Notice of proposal to amend lease . . . . .	160
	360E Submissions . . . . .	161
	360F Notice of registration of amendment of lease . . . . .	161
174	Amendment of s 361 (Definitions) . . . . .	162
175	Amendment of s 372 (End and continuation of easements) . . . . .	162
176	Insertion of new s 373AA . . . . .	162
	373AA Particular matters about easements and permit land. . . . .	162
177	Amendment of s 383 (Power of attorney). . . . .	163
178	Insertion of new s 389B . . . . .	163
	389B Effect on writ of execution of transfer after sale by chief executive . . . . .	163

179	Insertion of new ch 6, pt 4, div 11A . . . . .	163
	Division 11A    Caveats	
	Subdivision 1    Caveats generally	
	389C    Requirements of caveats . . . . .	164
	389D    Lodging caveat . . . . .	164
	389E    Notifying caveat . . . . .	165
	389F    Effect of lodging caveat . . . . .	165
	389G    Withdrawing caveat . . . . .	166
	389H    Removing caveat . . . . .	166
	389I    Cancelling caveat . . . . .	166
	389J    Further caveat . . . . .	167
	389K    Notices to the caveator. . . . .	167
	Subdivision 2    Chief executive's caveat	
	389L    Chief executive may prepare and register caveat. . . . .	167
180	Amendment of s 390A (Special provision for transport land) . . . . .	169
181	Insertion of new s 390B . . . . .	169
	390B    Particular dealing with rail land. . . . .	169
182	Insertion of new s 391A . . . . .	169
	391A    General provision about approvals. . . . .	170
183	Amendment of s 392 (Delegation by Minister) . . . . .	170
184	Amendment of s 393 (Delegation by chief executive) . . . . .	171
185	Replacement of s 394 (Committee of review) . . . . .	171
	394    Committees . . . . .	171
	394A    Ministerial guidelines about what constitutes a good condition for lease land. . . . .	172
186	Amendment of s 400 (Power to enter land, generally) . . . . .	172
187	Amendment of s 404 (No trespassing). . . . .	173
188	Insertion of new ss 405A and 405B . . . . .	173
	405A    Exercise of chief executive's powers under division . . . . .	173
	405B    Occupation fee for unlawful occupation by offeree until grant of tenure. . . . .	174
189	Amendment of s 406 (Notice to person to leave land, remove structures etc.) . . . . .	174
190	Insertion of new ch 7, pt 2A . . . . .	175
	Part 2A            General provisions for applications	
	420A    Application of pt 2A . . . . .	175
	420B    Application guidelines. . . . .	175
	420C    Requirements for making an application . . . . .	176

	420D	Refusal of frivolous or vexatious applications . . . . .	176
	420E	Request to applicant about application . . . . .	177
	420F	Refusing application for failure to comply with request . . . . .	177
	420G	Particular criteria generally not exhaustive . . . . .	178
	420H	Particular grounds for refusal generally not exhaustive . . . . .	178
	420I	General power to impose conditions . . . . .	178
191		Insertion of new s 441A . . . . .	179
	441A	Requirement for making conditional offers . . . . .	179
192		Amendment of s 442 (Lapse of offer) . . . . .	179
193		Amendment of s 468 (Existing leases continue) . . . . .	180
194		Amendment of ch 8, pt 5, div 1, hdg (Occupation licences and permits) . . . . .	180
195		Replacement of s 481 (Cancellation or surrender of occupation licence) . . . . .	180
	481	Cancellation . . . . .	180
	481A	Absolute surrender . . . . .	181
	481B	Application to cancel or surrender . . . . .	181
	481C	Notice of proposal to cancel or surrender . . . . .	182
	481D	Submissions . . . . .	183
	481E	Registration cancels occupation licence . . . . .	183
	481F	Registration surrenders occupation licence . . . . .	184
	481G	Notice of cancellation or absolute surrender . . . . .	184
	481H	Effect of cancellation or absolute surrender . . . . .	184
	481I	Person to give up possession on cancellation or absolute surrender . . . . .	185
	481J	Improvements . . . . .	185
196		Insertion of new ch 8, pt 5, div 1A, hdg . . . . .	186
197		Amendment of s 495 (Definitions) . . . . .	186
198		Amendment of s 503B (Definitions) . . . . .	186
199		Insertion of new ch 9, pt 1D . . . . .	186
	Part 1D	Transitional provisions for Land and Other Legislation Amendment Act 2007	
	521E	Divesting and vesting trust land . . . . .	186
	521F	Existing leases exempted from particular amendments . . . . .	187
	521G	Offer of additional area . . . . .	187
	521H	Forfeiture for outstanding amount . . . . .	187

	521I	Requirements for plan of subdivision . . . . .	187
	521J	Non-application of s 299A to particular documents . .	188
	521K	Application made before commencement . . . . .	188
	521L	Continuance of power to substitute particular tenure or registered documents . . . . .	188
	521M	Permits to occupy and unallocated State land . . . . .	188
	521N	Dealing with disputes under particular subleases . . .	188
	521O	Exclusion of imposed condition reviews for particular leases . . . . .	189
200		Amendment of sch 1 (Community purposes) . . . . .	189
201		Insertion of new sch 1A . . . . .	190
	Schedule 1A	Provisions that include mandatory conditions for tenures	
202		Amendment of sch 2 (Original decisions) . . . . .	191
203		Amendment of sch 6 (Dictionary) . . . . .	192
<b>Part 5</b>	<b>Amendment of Land Title Act 1994</b>		
204		Act amended in pt 5 . . . . .	202
205		Amendment of s 10 (Form of instruments) . . . . .	202
206		Amendment of s 50 (Requirements for registration of plan of subdivision) . . . . .	202
207		Amendment of s 51 (Dedication of public use land in plan) . . . . .	202
208		Amendment of s 54A (Building management statement may be registered) . . . . .	203
209		Amendment of s 189A (Payment to compensated mortgagee) . .	203
<b>Part 6</b>	<b>Amendment of Survey and Mapping Infrastructure Act 2003</b>		
210		Act amended in pt 6 . . . . .	203
211		Amendment of s 32 (Authority for cadastral surveyor to act for another in particular circumstances) . . . . .	204
<b>Part 7</b>	<b>Amendment of Surveyors Act 2003</b>		
212		Act amended in pt 7 . . . . .	205
213		Amendment of s 75 (Carrying out a cadastral survey) . . . . .	205
214		Insertion of new s 188A . . . . .	205
	188A	Board may make guidelines . . . . .	205
215		Amendment of sch 3 (Dictionary) . . . . .	206
<b>Part 8</b>	<b>Amendment of Transport Infrastructure Act 1994</b>		
216		Act amended in pt 8 . . . . .	207
217		Insertion of new s 477A . . . . .	207
	477A	Power to deal with particular land . . . . .	207





Queensland

# Land and Other Legislation Amendment Act 2007

## Act No. 19 of 2007

---

An Act to amend the *Land Act 1994*, and for other purposes

[Assented to 23 April 2007]

**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Land and Other Legislation Amendment Act 2007*.

### **2 Commencement**

This Act, other than the following provisions, commences on a day to be fixed by proclamation—

- sections 61, 62 and 166;
- section 199, to the extent it inserts section 521N.

## **Part 2 Amendment of Acquisition of Land Act 1967**

### **3 Act amended in pt 2**

This part amends the *Acquisition of Land Act 1967*.

### **4 Amendment of s 2 (Definitions)**

Section 2, definition *land*, from ‘fee simple,’—  
*omit, insert—*

‘fee simple, including fee simple in trust under the *Land Act 1994*, but does not include a freeholding lease under that Act.’.

**5 Amendment of s 12 (Effect of gazette resumption notice)**

Section 12(4), from ‘and may,’—

*omit, insert—*

‘and may, having regard to the purpose for which it was taken—

- (a) be dedicated, under the *Land Act 1994*, as a reserve under the trusteeship of the constructing authority or as a road; or
- (b) be granted or leased, under the *Land Act 1994*, to the constructing authority; or
- (c) be dealt with under another Act.’.

**6 Insertion of new s 12B**

After section 12A—

*insert—*

**‘12B Particular land may be dedicated as road**

- ‘(1) This section applies if land taken under this Act for the purpose of roads vests in a constructing authority for an estate in fee simple.
- ‘(2) The land may be dedicated as a road by recording a dedication notice for the land in the freehold land register.
- ‘(3) If the registrar of titles receives a dedication notice for the land, the registrar must register the notice.
- ‘(4) The registration of the dedication notice, without anything further, opens the road for the *Land Act 1994*.
- ‘(5) In this section—  
*dedication notice*, for land, see the *Land Act 1994*, schedule 6.’.



*omit, insert—*

‘fence, road or vehicular track’.

- (2) Schedule 10, definition *essential management*, paragraph (e), before ‘watering’—

*insert—*

‘vehicular tracks,’.

- (3) Schedule 10, definition *forest practice*, paragraph 1, after ‘freehold land’—

*insert—*

‘or indigenous land’.

- (4) Schedule 10, definition *forest practice*, paragraph 2, ‘road construction and maintenance’—

*omit, insert—*

‘construction and maintenance of roads or vehicular tracks’.

- (5) Schedule 10, definition *routine management*, paragraph (a)—

*omit, insert—*

‘(a) to establish a necessary fence, road or vehicular track if the maximum width of clearing for the fence, road or track is 10m; or’.

- (6) Schedule 10, definition *routine management*, paragraph (b), from ‘for establishing’ to ‘roads’—

*omit, insert—*

‘to construct necessary built infrastructure other than contour banks, fences, roads or vehicular tracks’.

## Part 4 Amendment of Land Act 1994

### 10 Act amended in pt 4

This part amends the *Land Act 1994*.

**11 Amendment of s 8 (Definitions)**

Section 8, heading, after ‘Definitions’—

*insert—*

‘for pt 4’.

**12 Amendment of s 14 (Governor in Council may grant land)**

(1) Section 14(1), after ‘land’—

*insert—*

‘, an operational reserve or rail land’.

(2) Section 14—

*insert—*

‘(4) A grant of rail land under subsection (1) may be made only to the State.’.

**13 Amendment of s 15 (Governor in Council may lease land)**

(1) Section 15, heading—

*omit, insert—*

**‘15 Leasing land’.**

(2) Section 15(1), ‘Governor in Council’—

*omit, insert—*

‘Minister’.

(3) Section 15(1), (2), (3) and (4)—

*renumber* as section 15(2), (4), (5) and (6).

(4) Section 15—

*insert—*

‘(1) The Governor in Council may issue a freeholding lease following an application to convert a lease made under section 166(1).

‘(3) However, a lease in perpetuity of unallocated State land may be granted only if—

- (a) under a provision of an Act, other than this Act, a perpetual lease must be issued over the unallocated State land; or

*Example of a provision of an Act for paragraph (a)—*

*Transport Infrastructure Act 1994, section 105J(4) and (5)*

- (b) under a provision of this Act, the Minister may issue a perpetual lease; or

*Example of a provision of this Act for paragraph (b)—*

section 17(2)

- (c) the Minister considers the lease is in the interests of the State.’.

#### **14 Amendment of s 16 (Deciding appropriate tenure)**

- (1) Section 16(5)—

*renumber* as section 16(6).

- (2) Section 16—

*insert—*

- ‘(5) This section does not apply to a grant of rail land in fee simple to the State.’.

#### **15 Amendment of s 17 (Granting land to the State)**

- (1) Section 17, from ‘may—’—

*omit, insert—*

‘may grant unallocated State land, an operational reserve or rail land in fee simple to the State.’.

- (2) Section 17—

*insert—*

- ‘(2) The Minister may lease unallocated State land to the State for either a term of years or in perpetuity.’.

**16 Replacement of s 18 (Governor in Council may exchange land)**

Section 18—

*omit, insert—*

**‘18 Exchanging land**

- ‘(1) The Governor in Council, by agreement with a registered owner, or the holder of a native title interest in land, may grant unallocated State land in exchange for all or part of the freehold land or the native title interest.

*Note—*

A deed of grant issued because of an exchange of land is issued under section 358.

- ‘(2) The Governor in Council, by agreement with a lessee of a freeholding lease, may grant a freeholding lease over unallocated State land in exchange for all or part of the freeholding lease.

*Note—*

A freeholding lease amended because of an exchange of land is amended under section 360(1)(d).

- ‘(3) The Minister, by agreement with a lessee of a term lease, other than a State lease, or a perpetual lease, or the holder of a native title interest in land, may lease unallocated State land for a term of years or in perpetuity in exchange for all or part of the lease or the native title interest.

*Note—*

A term or perpetual lease amended because of an exchange of land is amended under section 360A(2)(c).

- ‘(4) A power under this section may be exercised only if the State’s equity in land would not be reduced.’.

**17 Amendment of s 23 (Reservation for public purposes)**

Section 23—

*insert—*

- ‘(3) Despite subsections (1) and (2), a reservation for a future conservation area—

- (a) may only be contained in a lease; and
  - (b) must identify the particular land reserved.
- ‘(4) A reservation for a future conservation area may be made only if the NCA department has given the Minister—
- (a) a map showing the required particulars for a map of the area; or
  - (b) a description of the boundary of the area by reference to Map Grid of Australia 1994 coordinates and zone references for the area.’.

## **18 Insertion of new s 23A**

After section 23—

*insert—*

### **‘23A Floating reservation on plan of subdivision**

- ‘(1) A person seeking to have a plan of subdivision registered in relation to the land contained in a deed of grant, deed of grant in trust or lease may apply to the Minister for the allocation of a floating reservation to some or all of the lots created by the plan.
- ‘(2) In making a decision for subsection (1), the Minister—
- (a) must have regard to the purpose of the reservation, the likely future use of the land and where the reservation is most likely to be needed; and
- Example—*
- If the reservation is for road purposes, the Minister will have regard to where the road is most likely to be needed.
- (b) may have regard to information and advice obtained in the way the Minister considers appropriate.
- Example—*
- If the reservation is for road purposes, the Minister might decide to seek advice from the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered.
- ‘(3) If the reservation is contained in a deed of grant or freeholding lease, and the Minister is satisfied that all or part of the

reservation is no longer needed, the reservation, to the extent it is no longer needed, may be dealt with under section 24.

- ‘(4) If the reservation is contained in a deed of grant in trust, or in a lease other than a freeholding lease, and the Minister is satisfied that all or part of the reservation is no longer needed, the reservation, to the extent it is no longer needed, may be dealt with under section 26A.
- ‘(5) Written notice of the Minister’s decision for subsection (1) and the reasons for the decision must be given to the applicant.
- ‘(6) The applicant may appeal against the Minister’s decision.’.

## **19 Amendment of s 24 (Disposal of reservations no longer needed)**

- (1) Section 24(1), after ‘a deed of grant’—  
*insert—*  
‘or freeholding lease’.
- (2) Section 24(1), after ‘the deed of grant’—  
*insert—*  
‘or the lessee of the lease’.
- (3) Section 24(2), after ‘registered owner’—  
*insert—*  
‘or lessee’.
- (4) Section 24—  
*insert—*
- ‘(3) Land in a reservation may be sold under subsection (1) only if the registered owner or lessee has applied to the Minister to buy the land, and the Minister is satisfied the reservation is no longer needed.
- ‘(4) In making a decision under subsection (3), the Minister—
  - (a) must have regard to the purpose of the reservation and the likely future use of the land; and*Example—*

If the reservation is for road purposes, the Minister will have regard to whether the road is likely to be needed.

- (b) may have regard to information and advice obtained in the way the Minister considers appropriate.

*Example—*

If the reservation is for road purposes, the Minister might decide to seek advice from the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered.’.

## 20 Amendment of s 25 (Disposal of reservations by sale)

Section 25, after ‘registered owner’—

*insert—*

‘or lessee’.

## 21 Insertion of new s 26A

Chapter 2, part 2—

*insert—*

### ‘26A Disposal of redundant reservation

- ‘(1) If a reservation for a public purpose in a deed of grant in trust, a term lease or a perpetual lease is no longer needed for the purpose, the Minister may dispose of the reservation under this section.
- ‘(2) The Minister disposes of the reservation by approving the lodgement of a plan of subdivision that cancels the reservation and incorporates the land the subject of the reservation as land contained in the grant or lease.
- ‘(3) If the reservation is in a deed of grant in trust, the disposal must happen in conjunction with a surrender, under section 358(1), of the land contained in the deed of grant in trust.
- ‘(4) If the reservation is in a term lease or a perpetual lease, section 184(6) applies in relation to any increase in the area of land in the lease.
- ‘(5) In this section—
- reservation* includes part of a reservation.’.

**22 Amendment of s 30 (Object)**

Section 30—

*insert—*

‘(d) enable a deed of grant to be issued over an operational reserve.’.

**23 Replacement of s 31 (Dedication and adjustment of reserves)**

Section 31—

*omit, insert—*

**‘Subdivision 1 Reserves generally****‘31 Dedication of reserve**

- ‘(1) The Minister may dedicate unallocated State land as a reserve for 1 or more community purposes.
- ‘(2) However, the Minister may dedicate unallocated State land as a reserve for a community purpose that is the provision of services beneficial to Aboriginal people particularly concerned with land or Torres Strait Islanders particularly concerned with land only if the unallocated State land is transferrable land.
- ‘(3) The Minister may dedicate land under this section without receiving an application under section 31C.
- ‘(4) Land is dedicated as a reserve by registering a dedication notice or plan of subdivision for the reserve.
- ‘(5) The dedication notice or plan of subdivision must state the community purpose for which the land is dedicated as a reserve.
- ‘(6) The dedication notice must also state the description of the land dedicated as a reserve.
- ‘(7) The dedication of a reserve takes effect on the day the dedication notice or plan of subdivision for the dedication of the reserve is registered.

**‘31A Changing boundaries of reserve**

- ‘(1) The Minister may change the boundaries of a reserve other than a reserve dedicated for a community purpose mentioned in section 31(2).
- ‘(2) The Minister may change the boundaries of a reserve under this section without receiving an application under section 31C(a).
- ‘(3) The boundaries of a reserve are changed by registering an adjustment notice or plan of subdivision.
- ‘(4) The adjustment notice must state—
  - (a) the reason for the change of the boundaries of the reserve; and
  - (b) the amended description of the land dedicated as the reserve.
- ‘(5) The change of the boundaries of a reserve takes effect on the day the adjustment notice or plan of subdivision for the change is registered.

**‘31B Changing community purpose**

- ‘(1) The Minister may change the community purpose for which a reserve is dedicated.
- ‘(2) However, the Minister may change the community purpose for which a reserve is dedicated to a purpose mentioned in section 31(2) only if the reserve is transferable land.
- ‘(3) Also, the Minister may change the community purpose of a reserve dedicated for a purpose mentioned in section 31(2) only to Aboriginal purposes or Torres Strait Islander purposes.
- ‘(4) The Minister may change the community purpose for which a reserve is dedicated under this section without receiving an application under section 31C(b).
- ‘(5) The community purpose for which a reserve is dedicated is changed by registering an adjustment notice.
- ‘(6) The adjustment notice must state—
  - (a) the reason for the change of community purpose of the reserve; and

- (b) the changed community purpose for which the reserve is dedicated.
- ‘(7) The change of community purpose for which a reserve is dedicated takes effect on the day the adjustment notice for the change is registered.

### **‘31C Applying for dedication or adjustment of reserve**

‘A person may apply to the Minister for the dedication of a reserve and the trustee of a reserve may apply—

- (a) to change the boundaries of the reserve; or
- (b) to change the purpose for which the reserve is dedicated.

### **‘31D Notice of proposal to dedicate or adjust reserve**

- ‘(1) If the Minister proposes to dedicate unallocated State land as a reserve, written notice of the proposal must be given to the following—
- (a) the proposed trustee of the reserve;
  - (b) a person who made an application under section 31C, other than the proposed trustee;
  - (c) each person with a registered interest in the unallocated State land over which the reserve is proposed to be dedicated;
  - (d) another person the Minister considers should be given the notice.
- ‘(2) If the Minister proposes to change the boundaries of a reserve, written notice of the proposal must be given to the following—
- (a) the trustee of the reserve;
  - (b) a person who made an application under section 31C, other than the trustee;
  - (c) each person with a registered interest in the reserve;
  - (d) another person the Minister considers should be given the notice.

- ‘(3) If the Minister proposes to change the purpose for which a reserve is dedicated, written notice of the proposal must be given to the following—
- (a) the trustee of the reserve;
  - (b) a person who made an application under section 31C, other than the trustee;
  - (c) each person with a registered interest in the reserve;
  - (d) another person the Minister considers should be given the notice.
- ‘(4) The notice must—
- (a) be in the approved form; and
  - (b) state the following—
    - (i) the reason for the proposal;
    - (ii) that the person given the notice may make a submission against the proposal to the Minister;
    - (iii) that the submission must be made in the approved form;
    - (iv) the closing day for the submission;
    - (v) the place where or the way the submission must be lodged.

### **‘31E Submissions**

- ‘(1) A person given notice of a proposal under section 31D, other than a person who applied for the dedication or adjustment of the reserve, may make a submission against the proposal to the Minister.
- ‘(2) The submission must—
- (a) be made in the approved form; and
  - (b) be received by the closing day for the submission in the notice under section 31D(4)(b)(iv); and
  - (c) be lodged at the place or in the way stated in the notice under section 31D(4)(b)(v).

- ‘(3) The Minister must consider all submissions received under this section before dedicating, changing the boundaries of, or changing the purpose for, the reserve.

### **‘31F Notice of registration of action in relation to reserve**

- ‘(1) Written notice of the registration of an action in relation to a reserve must be given to each person given notice under section 31D about the proposed action.
- ‘(2) The notice must include the date of registration of the action.
- ‘(3) If an action is not registered, written notice of the fact must be given to each person given notice under section 31D about the proposed action.
- ‘(4) In this section—  
*action*, in relation to a reserve, means—
- (a) the dedication of the reserve under section 31; or
  - (b) the change of the boundaries of the reserve under section 31A; or
  - (c) the change of community purpose for which the reserve is dedicated under section 31B.’.

### **24 Amendment of s 33 (Revocation of reserves)**

- (1) Section 33(1), ‘, by gazette’ to ‘revoke’—  
*omit, insert—*  
 ‘may revoke the dedication of’.
- (2) Section 33(2), (3) and (4)—  
*omit, insert—*
- ‘(2) The Minister may revoke the dedication of all or part of a reserve without receiving an application under section 34.’.

### **25 Replacement of s 34 (Revocation of reserve cancels appointments, leases and permits)**

- Section 34—  
*omit, insert—*

**‘34 Applying to revoke dedication of reserve**

‘A person may apply for the revocation of the dedication of all or part of a reserve.

**‘34A Notice of proposal to revoke dedication of reserve**

- ‘(1) If the Minister proposes to revoke the dedication of all or part of a reserve, written notice of the proposal must be given to the following—
- (a) the trustee of the reserve;
  - (b) any person who applied for the revocation, other than the trustee;
  - (c) each person with a registered interest in the reserve;
  - (d) another person the Minister considers should be given the notice.
- ‘(2) The notice must—
- (a) be in the approved form; and
  - (b) state the following—
    - (i) the reason for the proposed revocation;
    - (ii) that the person given the notice may make a submission against the proposed revocation to the Minister;
    - (iii) that the submission must be made in the approved form;
    - (iv) the closing day for the submission;
    - (v) the place where or the way the submission must be lodged.

**‘34B Submissions**

- ‘(1) A person given notice of a proposal to revoke the dedication of all or part of a reserve under section 34A(1), other than a person who applied for the revocation of the dedication of the reserve, may make a submission against the proposed revocation to the Minister.

- ‘(2) The submission must—
- (a) be made in the approved form; and
  - (b) be received by the closing day for the submission stated in the notice under section 34A(2)(b)(iv); and
  - (c) be lodged at the place or in the way stated in the notice under section 34A(2)(b)(v).
- ‘(3) The Minister must consider all submissions received under this section before revoking the dedication of the reserve.

### **‘34C Removal of interests before revocation**

‘Before the Minister revokes the dedication of a reserve—

- (a) any State lease or easement existing over the reserve must be resumed or surrendered; and
- (b) any permit to occupy existing over the reserve must be cancelled or surrendered.

*Note—*

Under section 372(2), a public utility easement may continue over unallocated State land when the dedication of a reserve is revoked.

### **‘34D Registration revokes dedication of reserve**

- ‘(1) The dedication of all or part of a reserve is revoked by registering a revocation notice or plan of subdivision for the reserve.
- ‘(2) However, if the revocation relates to only part of a lot, the revocation may only be made by registering a plan of subdivision.
- ‘(3) Also, if all or part of a reserve for cemetery purposes has been used for cemetery purposes, the dedication of the reserve or any part of it may be revoked under this section only if a regulation authorises the revocation.
- ‘(4) A revocation notice or plan of subdivision registered for subsection (3)—
- (a) must state the particulars of the regulation mentioned in subsection (3); and

- (b) may only be registered when the *Statutory Instruments Act 1992*, section 50, can no longer operate to cause the regulation to cease to have effect.
- ‘(5) The revocation of the dedication of all or part of a reserve takes effect on the day a revocation notice or plan of subdivision is registered.

### **‘34E Notice of revocation**

- ‘(1) Written notice of the revocation of the dedication of a reserve must be given to each person given notice under section 34A(1) about the proposed revocation.
- ‘(2) The notice under subsection (1) must include all of the following—
  - (a) the date of the revocation;
  - (b) the effect, under section 34F, of the revocation;
  - (c) if there are improvements on the land the subject of the reserve owned by the person receiving the notice—a statement that the person may apply to remove the improvements.
- ‘(3) If the Minister decides not to revoke the dedication of a reserve, written notice of the fact must be given to each person given notice under section 34A(1) about the proposed revocation.

### **‘34F Effect of revocation**

‘On the revocation of all or part of a reserve, all of the following apply in relation to the land the subject of the revocation—

- (a) the reserve ends;
- (b) all appointments of trustees are cancelled;
- (c) all trustee leases and interests in the trustee leases are cancelled;
- (d) all trustee permits are cancelled;
- (e) the land becomes unallocated State land;

- (f) no person has a right to claim compensation from the Minister or the State for the revocation.

### **‘34G Person to give up possession**

- ‘(1) On the revocation of the dedication of all or part of a reserve, a person occupying land the subject of the revocation must immediately vacate the land.
- ‘(2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying unallocated State land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

### **‘34H Dealing with improvements**

- ‘(1) An owner of improvements on a reserve the dedication of which has been revoked may apply to remove the owner’s improvements on the reserve.
- ‘(2) The owner may remove the improvements only with the written approval of, and within a time stated by, the Minister.
- ‘(3) The improvements become the property of the State if—
- (a) the Minister refuses to give written approval for their removal; or
  - (b) the Minister gives written approval for their removal but the improvements have not been removed within the time stated by the Minister.
- ‘(4) However, if the land the subject of revocation is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.
- ‘(5) In this section—
- owner*, of improvements, means—
- (a) if the trustee of the reserve the dedication of which has been revoked owned the improvements—the trustee; or
  - (b) a person who—

- (i) made the improvements with the trustee's authority; and
- (ii) owned the improvements.

## **'Subdivision 2 Operational reserves**

### **'34I Applying for deed of grant**

- '(1) The trustee of an operational reserve may apply for the issue of a deed of grant over the reserve.
- '(2) An application under subsection (1) may not be made for the issue of a deed of grant over part only of the reserve.

### **'34J Notice of proposal to issue deed of grant**

- '(1) If the Governor in Council proposes to issue a deed of grant over an operational reserve, written notice of the proposal must be given to the following—
  - (a) the trustee of the reserve;
  - (b) each person with a registered interest in the reserve;
  - (c) another person the Minister considers should be given the notice.
- '(2) The notice must—
  - (a) be in the approved form; and
  - (b) state the following—
    - (i) the reason for the proposed issue of a deed of grant;
    - (ii) that the person given the notice may make a submission against the issue of the deed of grant to the Governor in Council;
    - (iii) that the submission must be made in the approved form;
    - (iv) the closing day for the submission;
    - (v) the place where or the way the submission must be lodged.

**‘34K Submissions**

- ‘(1) A person given notice of a proposal under section 34J(1), other than a trustee of the operational reserve, may make a submission against the issue of the deed of grant to the Governor in Council.
- ‘(2) The submission must—
  - (a) be made in the approved form; and
  - (b) be received by the closing day for the submission in the notice under section 34J(2)(b)(iv); and
  - (c) be lodged at the place or in the way stated in the notice under section 34J(2)(b)(v).
- ‘(3) The Governor in Council must consider all submissions received under this section before issuing the deed of grant.

**‘34L Removal of interests before grant**

‘Before the Governor in Council may issue a deed of grant over an operational reserve—

- (a) any State lease that exists over the reserve must be resumed or surrendered; and
- (b) any permit to occupy that exists over the reserve must be cancelled or surrendered.

**‘34M Registration of deed of grant revokes reservation and setting apart**

- ‘(1) The reservation and setting aside of an operational reserve is revoked by registering a deed of grant over the reserve.
- ‘(2) The deed of grant takes effect on the day the deed of grant is registered.

**‘34N Notice of registration of deed of grant**

- ‘(1) Written notice of the registration of the deed of grant over an operational reserve must be given to each person given notice under section 34J(1) about the issue of the deed of grant.

- ‘(2) The notice under subsection (1) must include both of the following—
  - (a) the date of registration of the deed of grant;
  - (b) the effect, under section 34O, of the registration of the deed of grant.
- ‘(3) If the Governor in Council does not issue a deed of grant over an operational reserve, written notice of the fact must be given to each person given notice under section 34J(1) about the proposed issue of the deed of grant.

### **‘34O Effect of revocation**

‘On the registration of a deed of grant over an operational reserve, all of the following apply—

- (a) the reservation and setting apart of the reserve is revoked;
- (b) the reserve ends;
- (c) all appointments of trustees are cancelled;
- (d) the deed of grant is issued subject to—
  - (i) all easements and trustee leases over the reserve; and
  - (ii) all registered interests in the easements and trustee leases.’.

### **26 Amendment of s 35 (Use for community purposes of land granted in trust)**

Section 35—

*insert—*

- ‘(3) The Governor in Council may notify an additional community purpose without receiving an application under section 38A(1)(a).
- ‘(4) An additional community purpose for land granted in trust is registered by registering an adjustment notice.
- ‘(5) The adjustment notice under subsection (4) must state—

- (a) the particulars of the gazette notice notifying an additional community purpose; and
  - (b) the additional community purpose for the deed of grant in trust.
- ‘(6) The additional community purpose for land granted in trust takes effect on the day the adjustment notice is registered.’.

## 27 Amendment of s 36 (Amalgamating land with common purposes)

- (1) Section 36(1), ‘If land to be granted in trust’—

*omit, insert—*

‘If unallocated State land to be granted in trust for a purpose’.

- (2) Section 36(2)—

*omit, insert—*

- ‘(2) If land contained in a deed of grant in trust for a purpose adjoins land contained in another deed of grant in trust for the same purpose, both areas of land may be included in a single deed of grant in trust.

*Note for subsections (1) and (3)—*

A deed of grant issued because of an addition of land is issued under section 358.

- ‘(3) However, the following land must not be included with land contained in a deed of grant in trust issued on or after 1 July 1995—

- (a) land contained in a deed of grant in trust issued before 1 July 1995;
- (b) land contained in a conditional deed that became a deed of grant in trust under section 493(1).

- ‘(4) For this section—

- (a) land separated from other land by a road or watercourse is taken to adjoin the other land; and
- (b) a reference to a deed of grant in trust issued before 1 July 1995 is taken to include a reference to a deed of grant in trust issued on or after 1 July 1995 under

section 358 for land originally granted in trust before 1 July 1995.’.

**28 Amendment of s 37 (Removing area from deed of grant in trust)**

Section 37(3), ‘or with the trustees approval’—

*omit, insert—*

‘or a person with the trustee’s authority’.

**29 Amendment of s 38 (Cancelling a deed of grant in trust)**

(1) Section 38(2), from ‘Before’ to ‘Council’—

*omit, insert—*

‘Before a deed of grant in trust is cancelled, the Minister’.

(2) Section 38(3) to (7)—

*omit, insert—*

‘(3) The Governor in Council may cancel a deed of grant in trust without receiving an application under section 38A(2).

‘(4) A deed of grant in trust is cancelled by the registration of a cancellation notice.

‘(5) The cancellation notice must include the particulars of the gazette notice cancelling the deed of grant in trust.

‘(6) The cancellation of the deed of grant in trust takes effect on the day the cancellation notice is registered.’.

**30 Insertion of new ss 38A–38G**

Chapter 3, part 1, division 3—

*insert—*

**‘38A Applying for additional community purpose, amalgamation or cancellation**

‘(1) The trustee of a deed of grant in trust may apply—

(a) for an additional community purpose to be notified under section 35; or

- (b) to amalgamate land with common purposes under section 36.
- ‘(2) A person may apply for the cancellation of a deed of grant in trust under section 38.

**‘38B Notice of proposal to add community purpose, amalgamate land or cancel**

- ‘(1) If the Minister proposes to notify an additional community purpose for land granted in trust under section 35, written notice of the proposal must be given to the following—
  - (a) the trustee of the deed of grant in trust;
  - (b) a person who made an application under section 38A(1)(a);
  - (c) each person with a registered interest in the trust land;
  - (d) another person the Minister considers should be given the notice.
- ‘(2) If the Minister proposes to amalgamate land with common purposes under section 36, written notice of the proposal must be given to the following—
  - (a) the trustee of the deed of grant in trust;
  - (b) a person who made an application under section 38A(1)(b);
  - (c) each person with a registered interest in the trust land;
  - (d) another person the Minister considers should be given the notice.
- ‘(3) If the Minister proposes to cancel a deed of grant in trust under section 38, written notice of the proposal must be given to the following—
  - (a) the trustee of the deed of grant in trust;
  - (b) a person who made an application under section 38A(2);
  - (c) each person with a registered interest in the trust land;
  - (d) another person the Minister considers should be given the notice.
- ‘(4) The notice must—

- (a) be in the approved form; and
- (b) state the following—
  - (i) the reason for the proposal;
  - (ii) that the person given the notice may make a submission against the proposal to the Governor in Council;
  - (iii) that the submission must be made in the approved form;
  - (iv) the closing day for the submission;
  - (v) the place where or the way the submission must be lodged.

### **‘38C Submissions**

- ‘(1) A person given notice of a proposal under section 38B, other than a person who applied for the cancellation of the deed of grant in trust, may make a submission against the proposal to the Governor in Council.
- ‘(2) The submission must—
  - (a) be made in the approved form; and
  - (b) be received by the closing day for the submission in the notice under section 38B(4)(b)(iv); and
  - (c) be lodged at the place or in the way stated in the notice under section 38B(4)(b)(v).
- ‘(3) The Governor in Council must consider all submissions received under this section before adding a community purpose to, amalgamating land with, or cancelling the deed of grant in trust.

### **‘38D Notice of registration of action**

- ‘(1) Written notice of the registration of an action in relation to a deed of grant in trust must be given to each person given notice under section 38B about the proposed action.
- ‘(2) The notice under subsection (1) must include the following—
  - (a) the date of registration of the action;

- (b) if the action is the addition of a community purpose for the deed of grant in trust—a copy of the gazette notice mentioned in section 35(2);
  - (c) if the action is the amalgamation of land with common purposes—the particulars of the new deed of grant in trust issued under section 358;
  - (d) if the action is the cancellation of a deed of grant in trust—
    - (i) a copy of the gazette notice mentioned in section 38(1); and
    - (ii) the effect, under section 38E, of the cancellation; and
    - (iii) if there are improvements on the land the subject of the deed of grant in trust owned by the person receiving the notice—a statement that the person may apply to remove the improvements.
- ‘(3) If an action is not registered, written notice of the fact must be given to each person given notice under section 38B(1) about the proposed action.
- ‘(4) In this section—
- action**, in relation to a deed of grant in trust, means—
- (a) the addition of a community purpose for the deed of grant in trust under section 35(2); or
  - (b) the amalgamation of land with common purposes under section 36; or
  - (c) the cancellation of a deed of grant in trust under section 38.

### ‘38E Effect of cancellation

‘On the cancellation of a deed of grant in trust, all of the following apply—

- (a) the trust ends;
- (b) all appointments of trustees are cancelled;
- (c) all interests in the deed of grant in trust are cancelled;

- (d) the land becomes unallocated State land;
- (e) no person has a right to claim compensation from the Minister or the State for the cancellation.

### **‘38F Person to give up possession**

- ‘(1) On the cancellation of a deed of grant in trust, a person occupying the land the subject of the cancellation must immediately vacate the land.
- ‘(2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying unallocated State land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

### **‘38G Dealing with improvements**

- ‘(1) An owner of improvements on a deed of grant in trust that has been cancelled may apply to remove the owner’s improvements on the deed of grant in trust.
- ‘(2) The owner may remove the improvements only with the written approval of, and within a time stated by, the Minister.
- ‘(3) The improvements become the property of the State if—
  - (a) the Minister has not given written approval for their removal; or
  - (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.
- ‘(4) However, if the land the subject of cancellation is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.
- ‘(5) In this section—

**owner**, of improvements, means—

  - (a) if the trustee under the cancelled deed of grant in trust owned the improvements—the trustee; or
  - (b) a person who—

- (i) made the improvements with the trustee's authority; and
- (ii) owned the improvements.'.

### 31 Insertion of new s 42A

After section 42—

*insert—*

#### '42A Amalgamating unallocated State land with existing deeds of grant in trust

- '(1) This section applies to unallocated State land that is—
  - (a) transferable land; and
  - (b) located within or adjoining the external boundaries of the land the subject of an existing deed of a grant in trust.
- '(2) The State may prepare a plan of subdivision showing the inclusion of the unallocated State land with the land the subject of the deed of grant in trust.
- '(3) Section 452A does not apply to the unallocated State land included with the deed of grant in trust.'

### 32 Amendment of s 43 (Only Parliament may delete land from or cancel an existing deed of grant in trust)

Section 43—

*insert—*

- '(3) Subsection (1)(b) does not apply to the cancellation of a deed of grant in trust under section 358 for the purposes of an amalgamation under section 42A.'

### 33 Amendment of s 44 (Appointing trustees)

- (1) Section 44(1), ', by gazette notice,'—  
*omit.*
- (2) Section 44(2), paragraphs (c) and (e)—  
*omit.*

- (3) Section 44(2), paragraphs (a) and (b)—  
*renumber* as paragraphs (b) and (c).
- (4) Section 44(2)—  
*insert*—  
'(a) the State; or'.
- (5) Section 44—  
*insert*—
  - '(4) Before a trustee may be appointed, the Minister must be given written acceptance of the appointment.
  - '(5) Written acceptance of the appointment under subsection (4) must be in the approved form.
  - '(6) A trustee is appointed by registering a trustee of trust land notice or plan of subdivision.
  - '(7) The appointment of a trustee under subsection (1) is effective—
    - (a) if the appointment is the appointment of a trustee of a reserve—on the day the trustee of trust land notice or plan of subdivision for the dedication of the reserve is registered; or
    - (b) if the appointment is the appointment of a trustee of a deed of grant in trust—on the day the trustee of trust land notice for the appointment is registered.
  - '(8) A plan of subdivision mentioned in subsection (7)(a) must include all of the following—
    - (a) the Minister's approval of the appointment;
    - (b) the name of the trustee;
    - (c) any conditions to which the appointment is subject under subsection (3).'

### **34 Amendment of s 45 (Details of trustees)**

Section 45(1)—

*omit, insert*—

- '(1) A change to a name of a trustee must be registered.'

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

Section 48(a), from ‘prepare’ to ‘Minister’—

*omit, insert—*

‘apply for the approval of’.

**36 Amendment of s 50 (Vacation of office by trustee)**

(1) Section 50(2)—

*renumber* as section 50(3).

(2) Section 50—

*insert—*

‘(2) The vacation of office of a trustee must be registered.’.

(3) Section 50(3) as renumbered, after ‘appoint’—

*insert—*

‘, under section 44.’.

**37 Amendment of s 51 (Removal of trustees)**

(1) Section 51(2)—

*renumber* as section 51(3).

(2) Section 51—

*insert—*

‘(2) The removal of a trustee from office must be registered.’.

(3) Section 51(3) as renumbered, after ‘appoint’—

*insert—*

‘, under section 44.’.

**38 Amendment of s 52 (General powers of trustee)**

(1) Section 52(2)(c)—

*omit, insert—*

‘(c) any conditions of appointment of the trustee.’.

- (2) Section 52—  
*insert—*
- ‘(3) Despite subsection (2)(a), the Minister may approve action that is inconsistent (***inconsistent action***) with the purpose for which the reserve was dedicated or the land was granted in trust if the Minister is reasonably satisfied the inconsistent action will not—
- (a) diminish the purpose for which the reserve was dedicated or the land was granted in trust; or
  - (b) adversely affect any business in the area surrounding the reserve or land granted in trust.
- ‘(4) The Minister’s approval under subsection (3) may be subject to conditions.
- ‘(5) A trustee of trust land may apply for the approval of an inconsistent action under subsection (3).’.

### 39 Insertion of new s 53A

After section 53—

*insert—*

#### ‘53A State trustee powers and delegation

- ‘(1) If the State is the trustee of trust land, the State may only exercise, for the trust land, powers that are not inconsistent with this Act.
- ‘(2) A relevant Minister for trust land may delegate a power of the State as trustee of trust land to an appropriately qualified officer of the State.
- ‘(3) In this section—
- appropriately qualified*** includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

a person’s level of employment in the entity in which the person is employed

***officer of the State*** means a public service officer and any other person employed in a public sector unit.

*relevant Minister*, for trust land, means the Minister having responsibility for the State for administering the trust land.’.

#### **40 Amendment of s 55 (Power to surrender)**

(1) Section 55, heading, after ‘surrender’—

*insert—*

**‘deed of grant in trust’.**

(2) Section 55(1)—

*omit, insert—*

‘(1) A trustee may surrender all or part of a deed of grant in trust—

(a) on terms agreed to between the Minister and the trustee;  
and

(b) with the Minister’s written approval.’.

(3) Section 55(3), (4), (5) and (6)—

*omit.*

#### **41 Insertion of new ss 55A–55H**

After section 55—

*insert—*

##### **‘55A Applying to surrender**

‘The trustee of a deed of grant in trust may apply to surrender all or part of the deed of grant in trust.

##### **‘55B Notice of proposal to approve surrender**

‘(1) If the Minister proposes to approve a surrender of all or part of a deed of grant in trust, written notice of the proposal must be given to the following—

(a) the trustee of the deed of grant in trust;

(b) each person with a registered interest in the deed of grant in trust;

(c) another person the Minister considers should be given the notice.

- ‘(2) The notice must—
- (a) be in the approved form; and
  - (b) state the following—
    - (i) the reason for the proposed surrender;
    - (ii) that the person given the notice may make a submission against the proposed surrender to the Minister;
    - (iii) that the submission must be made in the approved form;
    - (iv) the closing day for the submission;
    - (v) the place where or the way the submission must be lodged.

### **‘55C Submissions**

- ‘(1) A person given notice of a proposal under section 55B(1), other than the trustee, may make a submission against the proposal to the Minister.
- ‘(2) The submission must—
- (a) be made in the approved form; and
  - (b) be received by the closing day for the submission in the notice under section 55B(2)(b)(iv); and
  - (c) be lodged at the place or in the way stated in the notice under section 55B(2)(b)(v).
- ‘(3) The Minister must consider all submissions received under this section before approving the surrender of the deed of grant in trust.

### **‘55D Registration surrenders deed of grant in trust**

- ‘(1) All or part of a deed of grant in trust may be surrendered by registering a surrender notice or plan of subdivision.
- ‘(2) However, if the surrender relates to only part of a lot, the surrender may only be made by registering a plan of subdivision.

- ‘(3) The surrender of all or part of a deed of grant in trust takes effect on the day a surrender notice or plan of subdivision is registered.
- ‘(4) The *Land Title Act 1994*, section 50, and the provisions of the *Integrated Planning Act 1997*, about reconfiguring a lot do not apply to a plan of subdivision registered to give effect to a surrender under this section.

### **‘55E Notice of surrender**

- ‘(1) Written notice of the surrender of a deed of grant in trust must be given to each person given notice under section 55B(1) about the proposed surrender.
- ‘(2) The notice must include all of the following—
  - (a) the date of the surrender;
  - (b) the effect, under section 55F, of the surrender;
  - (c) if there are improvements on the land the subject of the deed of grant in trust owned by the person receiving the notice—a statement that the person may apply to remove the improvements.
- ‘(3) If the Minister decides not to approve the surrender of a deed of grant in trust, written notice of the fact must be given to each person given notice under section 55B(1) about the proposed surrender.

### **‘55F Effect of surrender**

‘On the surrender of all or part of a deed of grant in trust, the following applies in relation to the land the subject of the surrender—

- (a) the trusts ends;
- (b) all appointments of trustees are cancelled;
- (c) all interests in the deed of grant in trust are extinguished;
- (d) the land becomes unallocated State land;
- (e) no person has a right to claim compensation from the Minister or the State for the surrender.

**‘55G Person to give up possession on surrender**

- ‘(1) On the surrender of all or part of a deed of grant in trust, a person occupying the land the subject of the surrender must immediately vacate the land.
- ‘(2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying unallocated State land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

**‘55H Dealing with improvements**

- ‘(1) An owner of improvements on a deed of grant in trust that has been surrendered may apply to remove the owner’s improvements on the deed of grant in trust.
- ‘(2) The owner may remove the improvements only with the written approval of, and within a time stated by, the Minister.
- ‘(3) The improvements become the property of the State if—
  - (a) the Minister has not given written approval for their removal; or
  - (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.
- ‘(4) However, if the land the subject of surrender is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.
- ‘(5) In this section—

**owner**, of improvements, means—

  - (a) if the trustee under the surrendered deed of grant in trust owned the improvements—the trustee; or
  - (b) a person who—
    - (i) made the improvements on the land the subject of the surrender with the trustee’s authority; and
    - (ii) owned the improvements.’.

**42 Amendment of s 57 (Trustee leases)**

- (1) Section 57(2), after ‘conditions’—

*insert—*

‘, including, for example, that a stated mandatory standard terms document must form part of the lease’.

- (2) Section 57—

*insert—*

‘(2A) Despite subsections (1) and (2) a trustee may, without the Minister’s approval, lease (a **construction trustee lease**) all or part of the trust land to the State for the construction of transport infrastructure and the provision of transport services on the lease land.

‘(2B) A construction trustee lease may be granted even if its purpose is inconsistent with the purpose for which the trust land was reserved or granted in trust.’.

- (3) Section 57—

*insert—*

‘(3A) This section does not authorise the construction of works under a construction trustee lease before the lease is registered.’.

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

- (1) Section 58(2), after ‘conditions’—

*insert—*

‘, including, for example, in the case of a proposed sublease, that a stated mandatory standard terms document must form part of the sublease’.

- (2) Section 58—

*insert—*

‘(2A) Despite subsections (1) and (2)—

- (a) the State as the lessee under a construction trustee lease under section 57(2A) may, without the trustee’s or Minister’s approval, sublease (a **construction trustee**

*sublease*) all or part of the lease land to someone else for the purposes mentioned in section 57(2A); and

(b) the sublessee may further sublease the land the subject of the sublease.

‘(2B) A construction trustee sublease may be granted even if its purpose is inconsistent with the purpose for which the trust land was reserved or granted in trust.’.

(3) Section 58—

*insert—*

‘(6A) This section does not authorise the construction of works under a construction trustee sublease before the sublease is registered.’.

#### **44 Amendment of s 60 (Trustee permits)**

(1) Section 60(2), ‘guidelines prescribed under the regulations’—  
*omit, insert—*

‘requirements prescribed under a regulation’.

(2) Section 60(3), ‘3 months’—

*omit, insert—*

‘1 year’.

(3) Section 60—

*insert—*

‘(4) A trustee permit must not be for more than 3 years.

‘(5) If there is a registered mandatory standard terms document that applies generally to trustee permits—

(a) a trustee must not issue a trustee permit under this section unless the standard terms document forms part of the trustee permit; and

(b) the trustee permit is of no effect if the document does not form part of the trustee permit.

‘(6) Subsection (5) applies to a trustee permit whether or not it is required to be registered.’.

**45 Amendment of s 63 (Rent to be charged)**

Section 63(2), from ‘highest’ to ‘obtained,’—  
*omit, insert—*  
‘most appropriate rent’.

**46 Amendment of s 64 (Minister may dispense with approval)**

- (1) Section 64(1), ‘a trustee’—  
*omit, insert—*  
‘a relevant person’.
- (2) Section 64(1), ‘trustee leases’—  
*omit, insert—*  
‘relevant leases’.
- (3) Section 64(2), ‘trustee lease’—  
*omit, insert—*  
‘relevant lease’.
- (4) Section 64(2), ‘guidelines prescribed under the regulations’—  
*omit, insert—*  
‘requirements prescribed under a regulation’.
- (5) Section 64(4)—  
*omit, insert—*  
‘(4) A relevant person may apply for approval to lease, sublease or sub-sublease trust land even if an authority is in force.’
- ‘(5) If there is a registered mandatory standard terms document that applies generally to relevant leases—
  - (a) a relevant person must not lease, sublease or sub-sublease trust land unless the standard terms document forms part of the relevant lease; and
  - (b) the relevant lease is of no effect if the document does not form part of the relevant lease.

- ‘(6) Also, if there is a registered mandatory standard terms document that applies to a stated type of relevant lease—
- (a) a relevant person must not issue a relevant lease of the stated type unless the standard terms document forms part of the relevant lease; and
  - (b) the relevant lease is of no effect if the document does not form part of the relevant lease.

*Examples of stated types of relevant lease—*

a lease for a particular purpose or a lease relating to land in a particular area

- ‘(7) In this section—

***relevant lease*** means—

- (a) a trustee lease; or
- (b) a sublease of a trustee lease; or
- (c) a sub-sublease of a sublease of a trustee lease.

***relevant person*** means—

- (a) a trustee; or
- (b) a lessee under a trustee lease; or
- (c) a sublessee under a sublease of a trustee lease.’.

#### **47 Amendment of s 74 (Minister may start winding-up)**

Section 74(1), from ‘trust if a—’—

*omit, insert—*

‘trust if—

- (a) the dedication of a reserve is revoked; or
- (b) a deed of grant in trust is cancelled; or
- (c) a deed of grant in trust is sold by a mortgagee in possession.’.

#### **48 Amendment of s 78 (Winding-up may continue after revocation, cancellation or sale)**

Section 78(a), before ‘reserve’—

*insert—*

‘dedication of the’.

**49 Replacement of s 94 (Dedication of road by gazette notice)**

Section 94—

*omit, insert—*

**‘94 Dedication of road**

- ‘(1) The Minister may dedicate unallocated State land as a road for public use.
- ‘(2) A person may apply for the dedication of land as a road for public use.
- ‘(3) The Minister may dedicate land as a road for public use without receiving a permanent road closure application.
- ‘(4) The approval of a road closure application may be subject to conditions.
- ‘(5) Land may be dedicated as a road for public use by the registration of a dedication notice or a plan of subdivision.
- ‘(6) On the day the dedication notice or plan of subdivision is registered—
  - (a) the dedication of the land as a road for public use takes effect; and
  - (b) the land is opened for public use as a road.’.

**50 Insertion of new s 97A**

Chapter 3, part 2, division 2—

*insert—*

**‘97A Definitions for div 2**

‘In this division—

*permanent road closure application* means an application to permanently close a road under section 99(1).

*road closure application* means—

- (a) a permanent road closure application; or
- (b) a temporary road closure application.

***temporary road closure application*** means an application to temporarily close a road under section 99(2).’.

## 51 Amendment of s 98 (Closure of road by gazette notice)

- (1) Section 98, heading, ‘by gazette notice’—  
*omit.*
- (2) Section 98(1), from ‘may’—  
*omit, insert—*  
‘may—
  - (a) permanently close the road under division 4; or
  - (b) temporarily close the road by gazette notice.’.
- (3) Section 98(2), from ‘close’—  
*omit, insert—*  
‘permanently close the road without receiving an application under section 99(1).’.
- (4) Section 98(3), ‘The road is’—  
*omit, insert—*  
‘A road is temporarily’.

## 52 Replacement of s 99 (Application to close road)

Section 99—  
*omit, insert—*

### ‘99 Application to close road

- ‘(1) An entity may apply for the permanent closure of a road if the entity is—
  - (a) a public utility provider; or
  - (b) an adjoining owner for the road.
- ‘(2) A person may apply for the temporary closure of a road if the person is—

- (a) an adjoining owner for the road; or
  - (b) another person, if the closure of the road is only for allowing the person to make the structural improvements mentioned in section 104(b)(ii) or (iii).
- ‘(3) An adjoining owner who makes a permanent road closure application may ask for the road, on its closure, to be amalgamated with the adjoining owner’s adjoining land.
- ‘(4) Subsection (5) applies if the adjoining owner under subsection (3) is a registered owner, other than as trustee under a deed of grant in trust, of the adjoining land and other land that would be adversely affected by the permanent closure of the road.
- ‘(5) The adjoining owner may ask in the application that, on the closure of the road, the road, the adjoining land and the other land be amalgamated.
- ‘(6) The Minister may refuse a road closure application if the Minister is satisfied—
- (a) the road is the only dedicated access to a person’s land; or
  - (b) the road is, or may be, used regularly by the public as a road or stock route; or
  - (c) the road provides continuity to a road network.’.

### 53 **Amendment of s 100 (Public notice of closure)**

- (1) Section 100(3) and (4)—  
*renumber* as section 100(4) and (5).
- (2) Section 100(4) as renumbered, ‘The public notice must include’—  
*omit, insert*—  
‘Appropriate public notice includes’.
- (3) Section 100(5) as renumbered—  
*insert*—  
‘**no-through road** means a road that—
- (a) is closed at one end; and

- (b) provides access to the land of only 1 adjoining owner for the road.

*relevant applicant* means—

- (a) a public utility provider; or
- (b) an adjoining owner.’.

- (4) Section 100—

*insert—*

- ‘(3) However, appropriate public notice of a road closure application is not needed if—
  - (a) the road closure application is to close a no-through road; or
  - (b) the road closure application is to close part of a road by a volumetric format plan of subdivision and the closure will not adversely affect the part of the road being used as a road.’.

## **54 Replacement of ch 3, pt 2, divs 4 and 5**

Chapter 3, part 2, divisions 4 and 5—

*omit, insert—*

### **‘Division 4 Permanently closed roads**

#### **‘108 Permanent closure of road**

- ‘(1) If the Minister permanently closes a road, the road is permanently closed by the registration of a plan of subdivision.
- ‘(2) The permanent closure of the road takes effect on the day the plan of subdivision is registered.

#### **‘109 Closed road may be dealt with as lot or amalgamated with adjoining land**

- ‘(1) If the Minister is satisfied a road being permanently closed is of adequate area, having regard to the location of the road and the use made of adjoining land, to be used as a lot, the road—

- (a) must be shown as a lot on the plan of subdivision; and
  - (b) may be dealt with as unallocated State land.
- ‘(2) If the Minister is not satisfied under subsection (1), the road must be amalgamated with—
- (a) adjoining unallocated State land; or
  - (b) if there is no adjoining unallocated State land—the land of an adjoining owner for the road.

### **‘109A Simultaneous opening and closing of roads—deed of grant**

- ‘(1) A registered owner may apply for the simultaneous opening and closing of roads if—
- (a) a road is being opened in the land (the *relevant land*) the subject of a deed of grant; and
  - (b) at the same time—
    - (i) a road within the boundaries of or adjoining the relevant land is being closed; or
    - (ii) a road within the boundaries of land (the *additional land*) the subject of another deed of grant is being closed and the additional land and the relevant land adjoin and are owned by the same registered owner; or
    - (iii) a road adjoining land (also the *additional land*) the subject of another deed of grant is being closed and the additional land and the relevant land adjoin and are owned by the same registered owner; and
  - (c) the road being opened is a replacement of the road being closed.
- ‘(2) The registered owner may ask that the following be included in a deed of grant issued under section 358—
- (a) any severance of land created by the road being opened;
  - (b) the road being closed.
- ‘(3) The Minister’s approval of an application under subsection (1) may be subject to conditions.

- ‘(4) A registered owner may appeal against the conditions mentioned in subsection (3).
- ‘(5) The *Land Title Act 1994*, section 50, and the provisions of the *Integrated Planning Act 1997*, about reconfiguring a lot do not apply to the repositioning of a road under this section.
- ‘(6) In this section—
  - close*, a road, means permanently close the road under section 108.
  - open*, a road, means open for public use as a road under section 94.

**‘109B Simultaneous opening and closure of roads—trust land or lease land**

- ‘(1) A trustee or lessee may apply for the simultaneous opening and closure of roads if—
  - (a) a road is being opened in trust land or lease land (the *relevant land*); and
  - (b) at the same time a road within the boundaries of or adjoining the relevant land is being closed; and
  - (c) the road being opened is a replacement of the road being closed.
- ‘(2) If a trustee makes an application under subsection (1), the trustee may ask that the land in the road being closed be included in—
  - (a) if the trustee is the trustee under a deed of grant in trust—a deed of grant in trust issued under section 358; or
  - (b) if the trustee is the trustee of a reserve—the land dedicated as a reserve under section 31A.
- ‘(3) If a lessee makes an application under subsection (1), the lessee may ask that the land in the road being closed—
  - (a) if the lease is a freeholding lease—be amalgamated with the lease land under section 360(1)(e); or

- (b) if the lease is a term lease, other than a State lease, or a perpetual lease—be amalgamated with the lease land under section 360A(2)(d).
- ‘(4) The Minister’s approval of the application may be subject to conditions.
- ‘(5) A trustee or lessee may appeal against the conditions mentioned in subsection (4).
- ‘(6) The *Land Title Act 1994*, section 50, and the provisions of the *Integrated Planning Act 1997*, about reconfiguring a lot do not apply to the replacement of a road in a deed of grant in trust under this section.
- ‘(7) In this section—
- close*, a road, means permanently close the road under section 108.
- open*, a road, means open for public use as a road under section 94.

**‘109C Buying or leasing land if closed road amalgamated with adjoining land**

- ‘(1) This section applies if—
- (a) land must be amalgamated under section 109(2)(b); or
- (b) a registered owner has asked for an amalgamation of land under section 109A(2); or
- (c) a lessee has asked for an amalgamation of land under section 109B(3).
- ‘(2) Before the road is permanently closed, the road must be—
- (a) sold to 1 or more adjoining owners who are registered owners or lessees who have freeholding leases; or
- (b) with or without the payment of a premium as the Minister considers appropriate—leased to 1 or more adjoining owners who are lessees, other than lessees of freeholding leases.
- ‘(3) Subsection (2) does not apply to an adjoining owner who is a trustee of trust land.

‘(4) The Minister must decide the purchase price or the cash premium.’.

**55 Renumbering of ch 3, pt 2, div 6 (Building of roads in State developments)**

Chapter 3, part 2, division 6—

*renumber* as division 5.

**56 Amendment of s 115 (Conditions of sale)**

Section 115—

*insert*—

‘(3) Subsections (4) and (5) apply to a lease made available by public auction, tender or ballot if—

(a) the lease is for—

(i) rural leasehold land; and

(ii) a term of 20 years or more; and

(b) the lease land is 100ha or more.

‘(4) The sale of the lease is subject to a condition that the proposed lessee enter into a land management agreement for the lease.

‘(5) The lease is subject to conditions that—

(a) there must be a current land management agreement for the lease; and

(b) the lessee must comply with the agreement.’.

**57 Insertion of new s 120A**

Chapter 4, part 1, division 2—

*insert*—

**‘120A Applying for interest in land without competition**

‘(1) A person may apply for an interest in land that, under this division, may be granted without competition.

- ‘(2) If, under this division, the Minister decides to offer the interest, the interest may be offered to the applicant subject to conditions.
- ‘(3) If a conditional offer is made, the offer is accepted only if the applicant complies with all of its conditions.’.

**58 Amendment of s 122 (Deeds of grant of unallocated State land)**

- (1) Section 122(2), ‘local government’—  
*omit, insert—*  
‘constructing authority’.
- (2) Section 122(4)—  
*omit.*

**59 Amendment of s 127 (Reclaimed land)**

- (1) Section 127(1)—  
*omit, insert—*
- ‘(1) If a person has reclaimed land under the authority of an Act—
- (a) the Governor in Council may issue to the person, without competition, a deed of grant over all or part of the land; or
- (b) the Minister may issue to the person, without competition, a lease over all or part of the land.’.
- (2) Section 127(2), after ‘Governor in Council’—  
*insert—*  
‘or Minister’.

**60 Amendment of s 129 (Lease for significant development)**

- (1) Section 129(1), ‘Minister’—  
*omit, insert—*  
‘chief executive’.
- (2) Section 129—

*insert—*

- ‘(5) The application for the lease must not be granted unless the chief executive is satisfied, having regard to the independent assessment, about the applicant’s financial and managerial capabilities.’.

## **61 Insertion of new s 130A**

After section 130—

*insert—*

### **‘130A Change of financial and managerial capabilities of lessee of lease for significant development**

- ‘(1) The Minister may make a note under this section in the appropriate register against a lease under this division if—
- (a) in relation to the lease, there has been an independent assessment of at least 1 of the following—
    - (i) under section 129, an applicant’s financial and managerial capabilities;
    - (ii) under section 130, a transferee’s financial and managerial capabilities; or
  - (b) if paragraph (a) does not apply in relation to the lease—the Minister is satisfied the lease is a lease for a significant development.
- ‘(2) Before acting under subsection (1), the Minister must give the lessee at least 14 days notice in writing of the Minister’s intention to make the note.
- ‘(3) The lessee of a relevant lease—
- (a) must notify the Minister in the approved form as soon as practicable after there is a relevant change to the lessee; and
  - (b) must ensure that the notice to the Minister is accompanied by enough information about the relevant change to allow the Minister to decide whether an independent assessment of the financial and managerial capabilities of the lessee should be performed.

- ‘(4) The Minister may cause an independent assessment of the financial and managerial capabilities of a lessee of a relevant lease to be performed if—
- (a) the lessee notifies the Minister under subsection (3); or
  - (b) the Minister is satisfied on reasonable grounds that the lessee should have notified the Minister under subsection (3) but has not done so.
- ‘(5) To remove any doubt, it is declared that, for section 234(c), the lessee of a lease contravenes a provision of this Act in relation to the lease, and the lease may accordingly be forfeited under chapter 5, part 4, if—
- (a) the lease is a relevant lease; and
  - (b) the lessee contravenes subsection (3).
- ‘(6) Further, a lease may be forfeited under chapter 5, part 4 as if the lessee had contravened a provision of this Act in relation to the lease if all of the following circumstances apply—
- (a) the lease is a relevant lease;
  - (b) an independent assessment of the financial and managerial capabilities of the lessee of the lease is performed under subsection (4);
  - (c) as a result of the assessment, the Minister is satisfied on reasonable grounds that—
    - (i) there has been a relevant change to the lessee; and
    - (ii) the relevant change can reasonably be expected to detrimentally affect the capacity of the lessee of the lease to meet the lessee’s obligations under the lease.
- ‘(7) If an independent assessment of the financial and managerial capabilities of a lessee of a relevant lease is performed under subsection (4)—
- (a) the Minister may give to the person performing the assessment any information given to the Minister under subsection (3)(b) by the lessee; and
  - (b) the lessee must pay the costs of the assessment; and
  - (c) the cost is not refundable.

- ‘(8) If the Minister makes a note under this section against a lease—
- (a) written notice of the decision and the reasons for the decision must be given to the lessee; and
  - (b) the lessee may appeal against the decision.
- ‘(9) The Minister may remove a note made under this section against a lease if, having regard to the significant development to which the lease relates, the Minister considers its removal is appropriate in all the circumstances.

*Example—*

The Minister might remove a note if the Minister considers development required to be undertaken under the lease is complete or substantially complete.

- ‘(10) In this section—

***relevant change***, to a lessee of a relevant lease, means a change of substance in the financial and managerial capabilities of the lessee.

*Examples of relevant changes to a lessee—*

- 1 There is a change in the control of the lessee because of a share transaction involving the lessee or a holding company of the lessee, and the persons now directing the operations of the lessee do not have knowledge or experience in the lessee’s operations that relate to the relevant lease.
- 2 Receivers are appointed for the lessee.

***relevant lease*** means a lease noted in the register under subsection (1).’.

## 62 Amendment of s 136 (Conditions of offer and lease)

Section 136—

*insert—*

- ‘(5) Subsections (6) and (7) apply to an offer of a lease for an additional area if—
- (a) the additional area is 100ha or more; and
  - (b) the lease is to be a perpetual lease or a term lease for 20 years or more.

- ‘(6) The offer is subject to a condition that the proposed lessee must enter into a land management agreement for—
- (a) the additional area (the *relevant land*); and
  - (b) if the offer includes a condition mentioned in subsection (1) and the condition requires the additional area to be amalgamated or tied with lease land under another lease—the lease land (also the *relevant land*).
- ‘(7) If the offered lease is issued, any lease for the relevant land is subject to conditions that—
- (a) there must be a current land management agreement for the lease; and
  - (b) the lessee must comply with the agreement.’.

### **63 Insertion of new s 138A**

After section 138—

*insert—*

#### **‘138A Restriction on commencement of lease or permit**

‘A lease or permit under this part must not start until—

- (a) for a lease or permit sold under this part—the buyer complies with all of the conditions of sale; or
- (b) for a lease or permit offered under this part—the offeree complies with all of the conditions of the offer.’.

### **64 Amendment of s 144 (Division applies only to leases for grazing and agriculture)**

Section 144—

*insert—*

- ‘(2) To remove any doubt, it is declared that—
- (a) a reference in section 145, 146, 147 or 149 to a lease includes a reference to a sublease of a lease to which this division applies; and
  - (b) a reference in section 147, 149 or 151 to a lessee includes a reference to a sublessee of a sublease of a lease to which this division applies.’.

**65 Replacement of s 153 (Leases must be used for purpose issued)**

Section 153—

*omit, insert—*

**‘153 Lease must state its purpose**

‘A lease must state the purpose for which it is issued.

*Note—*

See also sections 16(1) (Deciding appropriate tenure) and 199A (Land may be used only for tenure’s purpose).’.

**66 Amendment of s 154 (Minister may approve additional purposes)**

(1) Section 154(2)—

*insert—*

‘(e) whether and in what way the lessee should apply under section 210 to change the conditions of the lease, having regard to the proposed purposes for which the lease is to be used.’.

(2) Section 154—

*insert—*

‘(4) The application must be accompanied by the written consent of all persons with a registered interest in the lease.

‘(5) However, consent under subsection (4) must not be unreasonably withheld.

‘(6) To remove any doubt, it is declared that an application under subsection (1) may be both for the addition of 1 or more purposes and for the removal of 1 or more purposes.

‘(7) If the lessee agrees with the matters notified under subsection (2)(b) to (d), and there is no associated change of conditions proposed under section 210, the purposes of the lease, as changed, must be registered.

‘(8) If the lessee agrees with the matters notified under subsection (2)(b) to (d), and the Minister and the lessee have agreed under section 210 to any associated change of conditions proposed under that section, the purposes of the lease, as

changed, must be registered in conjunction with the registration of the change of conditions.

- ‘(9) A change in the purposes of a lease is binding from the day the purposes, as changed, are registered.’.

## 67 Amendment of s 155 (Length of term leases)

- (1) Section 155, after ‘term lease’—

*insert—*

‘for land other than rural leasehold land’.

- (2) Section 155—

*insert—*

- ‘(3) A term lease for rural leasehold land must not be issued for more than 30 years.

- ‘(4) However, a term lease for rural leasehold land may be issued for a term of no more than 40 years if the Minister is satisfied the lease land is in good condition.

- ‘(5) Also, a term lease for rural leasehold land may be issued for a term of no more than to 50 years if—

- (a) the Minister considers that—

- (i) the lease land is in good condition; and  
 (ii) land (the *relevant land*) that is all or part of the lease land should be the subject of a conservation agreement or conservation covenant; and

- (b) a conservation agreement has been entered into, or a conservation covenant exists, for the relevant land; and

- (c) if the Minister considers that it is appropriate for there to be an indigenous access and use agreement relating to the lease land—an indigenous access and use agreement relating to the land has been entered into.

- ‘(6) This section is subject to sections 155A and 155B.’.

## 68 Insertion of new ss 155A–155E

After section 155—

*insert—*

**‘155A Extending particular term leases for a term of up to 40 years**

- ‘(1) This section applies to a lease if—
- (a) the lease is for rural leasehold land; and
  - (b) the lease land is 100ha or more; and
  - (c) the term of the lease is no more than 30 years; and
  - (d) there is a land management agreement for the lease; and
  - (e) the land management agreement contains a commitment by the Minister to extend the lease under this section; and
  - (f) no more than 10 years have passed since the agreement was first registered; and
  - (g) the lease has not already been extended under this section.
- ‘(2) The lessee may apply to extend the lease.
- ‘(3) The Minister may grant the application and extend the lease if the Minister is satisfied—
- (a) the lessee has complied with the land management agreement and any requirements under it for the granting of the extension; and
  - (b) the lease land is in good condition.
- ‘(4) However, the extension can not be for more than 10 years.

**‘155B Extending particular term leases for a term of up to 50 years**

- ‘(1) This section applies to a lease if—
- (a) the lease is for rural leasehold land; and
  - (b) the lease land is 100ha or more; and
  - (c) either—
    - (i) the term of the lease is for more than 30, but no more than 40, years; or

- (ii) the term of the lease has been extended under section 155A; and
  - (d) the unexpired term of the lease is at least 10 years; and
  - (e) there is a land management agreement for the lease; and
  - (f) the land management agreement contains a commitment by the Minister to extend the lease if the following circumstances apply—
    - (i) the Minister considers that land (the *relevant land*) that is all or part of the lease land should be the subject of a conservation agreement or conservation covenant;
    - (ii) a conservation agreement has been entered into, or a conservation covenant exists, for the relevant land;
    - (iii) if the Minister considers that it is appropriate for there to be an indigenous access and use agreement relating to the lease land—an indigenous access and use agreement relating to the land has been entered into; and
  - (g) the lease has not already been extended under this section.
- ‘(2) The lessee may apply to extend the lease.
- ‘(3) The Minister may grant the application and extend the lease if the Minister is satisfied—
- (a) the lessee has complied with the land management agreement and any requirements under it for the granting of the extension; and
  - (b) the lease land is in good condition.
- ‘(4) However, the extension can not be for more than 10 years.

### **‘155C Registering and taking of effect of extension**

- ‘(1) This section applies if, under section 155A or 155B, the Minister extends a term lease.
- ‘(2) The extension must be registered as soon as practicable after it is made.

- '(3) The extension has effect from the day it is registered.
- '(4) No fee is payable for registering the extension.

### **'155D Power to reduce term of extended term lease**

- '(1) This section applies to a term lease if—
  - (a) it has been extended under section 155A and the Minister considers the lease land is no longer in good condition; or
  - (b) it has been extended under section 155B and an indigenous access and use agreement entered into under section 155B(1)(f)(iii) is no longer in effect in relation to the lease land.
- '(2) The Minister may reduce the term of the lease by an amount that is no more than the period for which it was extended under section 155A or 155B.
- '(3) However, the Minister can not reduce the term by an amount that results in the lease no longer having an unexpired term.

*Note—*

A breach of a condition that the lessee comply with the land management agreement for the lease may also be dealt with by a remedial action notice.

### **'155E Provisions about reduction**

- '(1) This section applies if, under section 155D(2), the Minister decides to reduce the term of a term lease.
- '(2) Written notice must given to the lessee of the decision and the reasons for it.
- '(3) The lessee may appeal against the decision.
- '(4) The reduction must be registered as soon as practicable after the appeal expiration day for the decision.
- '(5) The reduction has effect from the day it is registered.
- '(6) No fee is payable for registering the reduction.
- '(7) No compensation is payable by the State for the reduction.'

**69 Insertion of new s 157A**

After section 157—

*insert—*

**‘157A Chief executive’s approval required for renewal**

- ‘(1) A term lease may be renewed only if—
- (a) the lessee has made an application under section 158; and
  - (b) under this division, the chief executive has made an offer of a new lease and the offer has been accepted.
- ‘(2) Subsection (1) is subject to section 164.<sup>1</sup>’.

**70 Amendment of s 158 (Application to renew lease)**

- (1) Section 158, heading—

*omit, insert—*

**‘158 Application for new lease’.**

- (2) Section 158(1), ‘to renew the lease’—

*omit, insert—*

‘for an offer of a new lease’.

- (3) Section 158(3)—

*renumber* as section 158(4).

- (4) Section 158—

*insert—*

- ‘(3) A renewal application can not be made for a lease if it contains a reservation that all of the lease land is a future conservation area.’.

- (5) Section 158—

*insert—*

- ‘(5) In this section—

<sup>1</sup> Section 164 (Short term extension)

*existing term*, of the lease, does not include an extension under section 155A or 155B of the term of the lease.’.

## 71 Amendment of s 159 (Issues the Minister must consider)

- (1) Section 159, heading—

*omit, insert—*

### ‘159 General provisions for deciding application’.

- (2) Section 159, from ‘The Minister’ to ‘lease—’—

*omit, insert—*

‘The chief executive must consider the following before deciding whether or not to offer a new lease, the conditions of the offer or the imposed conditions of the new lease—’.

- (3) Section 159(b) and (d) and (h) to (l), ‘lease’—

*omit, insert—*

‘lease land’.

- (4) Section 159(e) and (f)—

*omit, insert—*

‘(e) the condition of the lease land;

(f) the extent to which the lease land suffers from, or is at risk of, land degradation;’.

- (5) Section 159(g), after ‘lease’—

*insert—*

‘and any land management agreement for the lease’.

- (6) Section 159—

*insert—*

‘(m) whether a new lease is the most appropriate form of tenure for the lease land;

(n) the lessee’s record of compliance with this Act;

(o) the natural environmental values of the lease land.’.

- (7) Section 159—

*insert—*

- ‘(2) However, subsection (1)(d) applies only if the NCA department has given the chief executive—
- (a) a written notice stating the environmental or nature conservation purposes for which the part of the lease land is required; and
  - (b) either—
    - (i) a map showing the required particulars for a map of the part; or
    - (ii) a description of the boundary of the part by reference to Map Grid of Australia 1994 coordinates and zone references for the area.
- ‘(3) If the lease contains a reservation that part of the lease land is a future conservation area the chief executive can not offer a new lease for that part.
- ‘(4) To remove any doubt, it is declared that, to the extent the lease land is in an urban area, the chief executive need not consider any issue that is not relevant to an urban environment.
- Example of an issue not relevant to an urban environment—*
- whether part of the lease land should be set apart and declared as State forest
- ‘(5) In considering the natural environmental values of the lease land, the matters to which the chief executive must have regard include any advice about the values the chief executive receives from the NCA department.’.

## **72 Insertion of new s 159A**

After section 159—

*insert—*

### **‘159A Provisions for decision about most appropriate form of tenure**

- ‘(1) In deciding, under section 159(1)(m), whether a new lease is the most appropriate form of tenure for the lease land the subject of a renewal application, section 16 applies—
- (a) as if a reference in the section to an allocation were a reference to the decision; and

- (b) with other necessary changes.
- ‘(2) If the lease is over a reserve, the chief executive must, before making the decision, consult with the trustee for the reserve.
- ‘(3) If the decision is that another form of tenure is a more appropriate form of tenure than a new lease, the chief executive may elect to treat the application as a conversion application for the other form of tenure.
- ‘(4) On the making of the election—
  - (a) the renewal is taken to be a conversion application for the other form of tenure; and
  - (b) division 3 applies to the conversion application.’.

**73 Amendment of s 160 (Written notice of Minister’s decision)**

- (1) Section 160, ‘Minister’s’—  
*omit, insert—*  
‘chief executive’s’.
- (2) Section 160, ‘Minister’—  
*omit, insert—*  
‘chief executive’.

**74 Insertion of new s 160A**

After section 160—

*insert—*

**‘160A Land management agreement condition for particular offers**

- ‘(1) This section applies if—
  - (a) a new lease is offered under section 160(1); and
  - (b) the new lease—
    - (i) is for rural leasehold land; and
    - (ii) is to be for a term of 20 years or more; and
  - (c) the lease land is 100ha or more.

- ‘(2) The offer is subject to a condition that the proposed lessee must enter into a land management agreement for the new lease.’.

## **75 Replacement of s 162 (Acceptance of offer)**

Section 162—

*omit, insert—*

### **‘162 Issuing of new lease**

- ‘(1) On acceptance of the offer, the Minister may issue a lease (the *new lease*) in accordance with the terms of the accepted offer.
- ‘(2) The new lease must be issued for the same purpose as the lease (the *old lease*) the subject of the renewal application.
- ‘(3) Additional unallocated State land may be included in the new lease, if chapter 4, part 1, division 2 is complied with.<sup>2</sup>
- ‘(4) The new lease is issued subject to all relevant registered interests to which the old lease was subject, and in the same priorities.
- ‘(5) On the registration of the new lease, the old lease is taken to have been wholly surrendered.
- ‘(6) The surrender must be registered.

### **‘162A Conditions imposed on particular new leases**

- ‘(1) This section imposes conditions on a lease issued under section 162 if—
- (a) the lease—
- (i) is for rural leasehold land; and
- (ii) is to be for a term of 20 years or more; and
- (b) the lease land is 100ha or more.
- ‘(2) There must be a current land management agreement for the lease.
- ‘(3) The lessee must comply with the agreement.’.

<sup>2</sup> Chapter 4, part 1, division 2 is about interests available in land without competition.

**76 Insertion of new s 165A**

After section 165—

*insert—*

**‘165A Chief executive’s approval required for conversion**

‘A lease may be converted under this division only if—

- (a) the lessee has made an application under section 166; and
- (b) under this division, the chief executive has made an offer to convert the lease and the offer has been accepted.’.

**77 Amendment of s 166 (Application to convert lease)**

- (1) Section 166(1), from ‘A lessee’ to ‘*conversion application*’—

*omit, insert—*

‘Subject to subsections (2) to (4), a lessee may apply to convert (a *conversion application*)’.

- (2) Section 166(2)(b), ‘Minister’s’—

*omit, insert—*

‘chief executive’s’.

- (3) Section 166(3)—

*renumber* as section 166(5).

- (4) Section 166—

*insert—*

‘(3) A lessee of a term lease not issued for pastoral purposes may only apply to convert the lease to freehold land.

‘(4) A conversion application can not be made for a lease if it contains a reservation that all of the lease land is a future conservation area.’.

- (5) Section 166—

*insert—*

‘(6) In this section—

*existing term*, of the lease, does not include an extension under section 155A or 155B of the term of the lease.’.

**78 Amendment of s 167 (Issues the Minister must consider)**

- (1) Section 167, heading—

*omit, insert—*

**‘167 Provisions for deciding application’.**

- (2) Section 167(1), from ‘The Minister’ to ‘lease—’—

*omit, insert—*

‘The chief executive must consider the following in deciding whether or not to offer to convert a lease, the conditions on which the offer is made and, if the offer is for a lease, its imposed conditions—’.

- (3) Section 167(1)(a), (b) and (d) and (h) to (m), ‘lease’—

*omit, insert—*

‘lease land’.

- (4) Section 167(1)(e) and (f)—

*omit, insert—*

‘(e) the condition of the lease land;

(f) the extent to which the lease land suffers from, or is at risk of, land degradation;’.

- (5) Section 167(1)(g), after ‘lease’—

*insert—*

‘and with any land management agreement for the lease’.

- (6) Section 167—

*insert—*

‘(n) the most appropriate form of tenure for the lease land;

(o) the lessee’s record of compliance with this Act;

(p) the natural environmental values of the lease land.’.

- (7) Section 167—

*insert—*

- ‘(3) Also, subsection (1)(d) applies only if the NCA department has given the chief executive—
- (a) a written notice stating the environmental or nature conservation purposes for which the part of the lease land is required; and
  - (b) either—
    - (i) a map showing the required particulars for a map of the part; or
    - (ii) a description of the boundary of the part by reference to Map Grid of Australia 1994 coordinates and zone references for the area.
- ‘(4) If the lease contains a reservation that part of the lease land is a future conservation area the chief executive can not offer a new lease or a deed of grant for that part.
- ‘(5) To remove any doubt, it is declared that, to the extent the lease land is in an urban area, the chief executive need not consider any issue that is not relevant to an urban environment.

*Example of an issue not relevant to an urban environment—*

whether part of the lease land should be set apart and declared as State forest

- ‘(6) In considering the natural environmental values of the lease land, the matters to which the chief executive must have regard include any advice about the values the chief executive receives from the NCA department.
- ‘(7) For subsection (1)(m), section 16 applies, with necessary changes, as if a reference in the section to an allocation were a reference to a decision mentioned in subsection (1).’.

## **79 Amendment of s 168 (Written notice of Minister’s decision)**

- (1) Section 168, ‘Minister’s’—

*omit, insert—*

‘chief executive’s’.

- (2) Section 168, ‘Minister’—

*omit, insert—*

‘chief executive’.

**80 Insertion of new s 168A**

After section 168—

*insert—*

**‘168A Land management agreement for new perpetual lease**

- ‘(1) This section applies to the offer under section 168(1) of a new perpetual lease if the lease land is rural leasehold land.
- ‘(2) The offer is subject to a condition that the lessee must enter into a land management agreement for the lease.
- ‘(3) The lease is subject to conditions that—
  - (a) there must be a current land management agreement for the lease; and
  - (b) the lessee must comply with the agreement.’.

**81 Amendment of s 169 (Conditions of freehold offer)**

Section 169(a), ‘under the *Nature Conservation Act 1992*’—

*omit.*

**82 Amendment of s 170 (Purchase price if deed of grant offered)**

- (1) Section 170, ‘Minister’—

*omit, insert—*

‘chief executive’.

- (2) Section 170(2), ‘Minister’s’—

*omit, insert—*

‘chief executive’s’.

**83 Replacement of s 172 (Acceptance of offer)**

Section 172—

*omit, insert—*

**‘172 Issuing of new tenure**

- ‘(1) On acceptance of the offer a tenure (the *new tenure*) may be issued by—
- (a) if the new tenure is a deed of grant or freeholding lease—the Governor in Council; or
  - (b) if the new tenure is a term or perpetual lease—the Minister.

*Note—*

See also section 153 (Lease must state its purpose).

- ‘(2) The new tenure must be issued in accordance with the terms of the accepted offer.
- ‘(3) Additional unallocated State land may be included in the new lease, if chapter 4, part 1, division 2 is complied with.<sup>3</sup>
- ‘(4) If the new tenure is a lease, it must be issued for the same purpose as the lease (the *old lease*) the subject of the conversion application.
- ‘(5) The new tenure is issued subject to all relevant registered interests to which the old lease was subject, and in the same priorities.
- ‘(6) On the registration of the new tenure, the old lease is taken to have been wholly surrendered.
- ‘(7) The surrender must be registered.’

**84 Insertion of new s 173A**

After section 173—

*insert—*

---

<sup>3</sup> Chapter 4, part 1, division 2 is about interests available in land without competition.

**‘173A Short term extension**

‘If it appears a lease would expire before a conversion application is finalised, the Minister may extend the term of the lease for periods of no longer than 1 year, until the application is finalised.’

**85 Amendment, relocation and renumbering of s 175 (Forest entitlement areas)**

- (1) Subsection 175(1), ‘the lessee’—  
*omit, insert*—  
‘a lessee’.
- (2) Section 175(5), ‘section 176’—  
*omit, insert*—  
‘section 26C’.
- (3) Section 175 as amended—  
*relocate and renumber*, in chapter 2, part 2, as section 26B.

**86 Relocation and renumbering of s 176 (Effect of resumption of forest entitlement area)**

Section 176—  
*relocate and renumber*, in chapter 2, part 2, as section 26C.

**87 Insertion of new ch 4, pt 3, divs 4–7**

Before chapter 3, part 4—  
*insert*—

**‘Division 4 Subdividing leases****‘175 When lease may be subdivided**

‘A lease may be subdivided only if—  
(a) this Act or a condition of the lease does not prohibit its subdivision; and

- (b) the lease is not, by a registered covenant or tied condition, tied to another lease or freehold land; and
- (c) the chief executive has, on an application made under this division, approved the subdivision; and
- (d) the requirements under this division for the subdivision have been complied with.

### **‘176 Application to subdivide**

- ‘(1) A lessee of a lease (the *existing lease*) may apply for approval to subdivide the lease.
- ‘(2) The application must be accompanied by—
  - (a) a statement of the applicant’s reasons for seeking the proposed subdivision; and
  - (b) a statement by the relevant local government of its views on the proposed subdivision; and
  - (c) the written consent of all persons with a registered interest in the lease land.
- ‘(3) However, consent under subsection (2)(c) must not be unreasonably withheld.

### **‘176A General provisions for deciding application**

- ‘(1) The chief executive must decide whether to approve the proposed subdivision.
- ‘(2) If the chief executive decides to grant the approval, the chief executive must decide an offer (the *subdivision offer*) of new leases to the applicant for the lease land.
- ‘(3) The subdivision offer must state the term and the imposed conditions of each of the new leases.
- ‘(4) The subdivision offer may be made subject to conditions.

*Example—*

a condition that a plan of survey for the proposed subdivision, approved by the chief executive and capable of registration, be lodged

- ‘(5) However, if there is a land management agreement for the existing lease, the subdivision offer must be subject to the

condition that a land management agreement must be entered into for each new lease the subject of the offer.

- ‘(6) The term of a new lease may be longer than the unexpired term of the existing lease.

### **‘176B Criteria for deciding application**

‘In deciding the matters under section 176A the chief executive must consider—

- (a) whether the proposed subdivision—
  - (i) is appropriate, taking into account State, regional and local planning strategies and the objects of this Act; and
  - (ii) will require dedication of part of the lease land as a road for access to the subdivided land; and
- (b) the matters mentioned in section 159(1) to the extent they are relevant to the proposed subdivision and the term of any new leases to be offered.

### **‘176C Specific grounds for refusal**

‘The chief executive may refuse to give the approval if—

- (a) the applicant has made an earlier application for approval to subdivide the existing lease; and
- (b) the earlier application was refused; and
- (c) there is no relevant change in circumstances from the earlier application.

### **‘176D Notice of decision**

- ‘(1) If the chief executive decides to grant the approval, the applicant must be given a written notice stating the subdivision offer.
- ‘(2) If the chief executive decides to refuse the approval, the applicant must be given a written notice of the decision and the reason for it.

**‘176E Appeal against refusal**

‘If—

- (a) the chief executive decides to refuse the approval; and
  - (b) the only reason for the refusal was that the applicant had not complied with the conditions of the existing lease;
- the applicant may appeal against the decision.

**‘176F Acceptance of subdivision offer**

‘The subdivision offer is accepted only if the applicant complies with its conditions.

**‘176G Issuing of new leases**

- ‘(1) On acceptance of the subdivision offer—
  - (a) any plan of subdivision required under a condition of the offer to be lodged must be registered; and
  - (b) the designated person may issue the new leases in accordance with the terms of the accepted offer.

*Note—*

See also section 153 (Lease must state its purpose).

- ‘(2) The new leases are issued subject to all relevant registered interests to which the existing lease was subject with the same priorities.
- ‘(3) On registration of the new leases, the existing lease is taken to have been wholly surrendered.
- ‘(4) The surrender must be registered.

**‘176H Restriction on transferring new leases**

‘It is a mandatory condition of each of the new leases that they can not be transferred for 5 years from when their terms start, unless the Minister is satisfied that special circumstances exist.

**‘176I Power to waive fees if chief executive requested application**

‘If the application was made at the chief executive’s request and the subdivision offer is made, the chief executive may waive all or part of any charge or fee for the application, the registration of any relevant plan of subdivision or the issue of the new leases.

**‘Division 5 Amalgamating leases****‘176J When leases may be amalgamated**

- ‘(1) Two or more leases may be amalgamated only if—
- (a) the lease land is not a reserve or State forest; and
  - (b) this Act or a condition of the lease does not prohibit the amalgamation; and
  - (c) there is no registered mortgage over only part of the lease land; and
  - (d) the chief executive has, on an application made under this division, approved the amalgamation; and
  - (e) the requirements under this division for the amalgamation have been complied with.
- ‘(2) In this section—
- lease land* means the lease land for all of the leases.

**‘176K Application to amalgamate**

- ‘(1) The lessee of 2 or more leases (the *existing leases*) may apply for approval to amalgamate them only if—
- (a) the lessee is the lessee of all of them; and
  - (b) they are of the same tenure type; and
  - (c) the lease land for the existing leases is contiguous.
- ‘(2) If the lessee comprises 2 or more persons, each person must be a party to the application.
- ‘(3) The application must be accompanied by—

- (a) a statement of the applicant's reasons for seeking the proposed amalgamation; and
  - (b) a statement by the relevant local government of its views on the proposed amalgamation; and
  - (c) the written consent of all persons with a registered interest in the lease land for the existing leases.
- '(4) However, consent under subsection (3)(c) must not be unreasonably withheld.

#### **'176L General provisions for deciding application**

- '(1) The chief executive must decide whether to approve the proposed amalgamation.
- '(2) If the chief executive decides to grant the approval, the chief executive must decide an offer (the *amalgamation offer*) of an amalgamated lease to the applicant for the lease land of the existing leases.
- '(3) The amalgamation offer must state the term and the imposed conditions of the amalgamated lease.
- '(4) The amalgamation offer may be made subject to conditions.

*Example—*

a condition that a plan of survey for the proposed amalgamation, approved by the chief executive and capable of registration, be lodged

- '(5) However, if there is a land management agreement for any of the existing leases, the amalgamation offer must be subject to a condition that a land management agreement must be entered into for the amalgamated lease.
- '(6) The term of the amalgamated lease may be longer than the unexpired term of all or any of the existing leases.

#### **'176M Criteria for deciding application**

'In deciding the matters under section 176L the chief executive must consider—

- (a) whether the proposed amalgamation is appropriate, taking into account State, regional and local planning strategies and the objects of this Act; and

- (b) the matters mentioned in section 159(1) to the extent they are relevant to the proposed amalgamation and the term of any amalgamated lease to be offered.

### **‘176N Roads**

- ‘(1) This section applies if there is a road within the external boundaries of the lease land of any of the existing leases.
- ‘(2) The chief executive must consider—
  - (a) whether the road is still needed for public use; and
  - (b) if the road were to be closed—whether it should be included within the external boundaries of the lease land of the proposed amalgamated lease.
- ‘(3) If the applicant or the chief executive proposes to close the road and include its area in the lease land of any amalgamated lease, the chief executive must—
  - (a) seek the opinion of the relevant local government on the proposal; and
  - (b) comply with chapter 4, part 1, division 2.

### **‘176O Specific grounds for refusal**

- ‘The chief executive may refuse to give the approval if—
- (a) the applicant has made an earlier application for approval to amalgamate the existing leases; and
  - (b) the earlier application was refused; and
  - (c) there is no relevant change in circumstances from the earlier application.

### **‘176P Notice of decision**

- ‘(1) If the chief executive decides to grant the approval the applicant must be given a written notice stating the amalgamation offer.
- ‘(2) If the chief executive decides to refuse the approval the applicant must be given a written notice of the decision and the reasons for it.

**‘176Q Appeal against refusal**

‘If—

- (a) the chief executive decides to refuse the approval; and
- (b) the only reason for the refusal was that the applicant had not complied with the conditions of 1 or more of the existing leases;

the applicant may appeal against the decision.

**‘176R Acceptance of amalgamation offer**

‘The amalgamation offer is accepted only if the applicant complies with its conditions.

**‘176S Issuing of amalgamated lease**

‘(1) On acceptance of the amalgamation offer—

- (a) any plan of amalgamation required under a condition of the offer to be lodged must be registered; and
- (b) the designated person may issue the amalgamated lease in accordance with the terms of the accepted offer.

*Note—*

See also section 153 (Lease must state its purpose).

- ‘(2) The amalgamated lease is issued subject to all relevant registered interests to which the existing leases were subject with the same priorities.
- ‘(3) On registration of the amalgamated lease, the existing leases are taken to have been wholly surrendered.
- ‘(4) The surrenders must be registered.

**‘176T Power to waive fees if chief executive requested application**

‘If the application was made at the chief executive’s request and the amalgamation offer is made, the chief executive may waive all or part of any charge or fee for the application, the registration of any relevant plan of amalgamation or the issue of the amalgamated lease.

## **‘Division 6                    Land management agreements**

### **‘176U Making and registration of agreement about land management**

- ‘(1) The Minister may, for the State, make or amend a written agreement with a lessee about the management and use of the lease land.
- ‘(2) However the agreement or amendment has effect only if it is registered.

*Note—*

For registration of land management agreements, see section 279.

- ‘(3) The agreement and any amendment of the agreement registered from time to time is a *land management agreement*.

### **‘176V Purposes of a land management agreement**

‘The purposes of a land management agreement for a lease are to do each of the following to the extent they are relevant to the lease land—

- (a) identify and describe the natural and physical attributes of the lease land, including its known indigenous and other cultural heritage and significant natural environmental values;
- (b) record the condition of the lease land at a particular point in time;
- (c) improve or maintain its condition so that it is, or will be, at least in good condition;
- (d) identify any land degradation issues relating to the land;
- (e) establish the agreed management outcomes for the identified land degradation issues and the associated management strategies to address them;
- (f) identify measures to protect the known indigenous and other cultural heritage and the identified significant natural environmental values;
- (g) establish a monitoring and reporting program;

- (h) establish a process to verify the performance of the lessee in relation to the outcomes;
- (i) establish a dispute resolution process;
- (j) establish a review process to maintain the relevance and effectiveness of the agreement.

#### **‘176W Content of land management agreement**

- ‘(1) A land management agreement for a lease may include—
  - (a) a commitment mentioned in section 155A(1)(e) or 155B(1)(f); and
  - (b) any matter the Minister considers appropriate to achieve the purposes of a land management agreement.
- ‘(2) The chief executive may issue guidelines about the content and preparation of land management agreements.

#### **‘176X Reviewing land management agreement**

‘The Minister must, at least once every 10 years, review each land management agreement for a lease to assess the lessee’s performance in relation to the management outcomes under the agreement.

*Note—*

See also section 211(1) (Reviewing imposed conditions of lease).

### **‘Division 7                      Miscellaneous provisions**

#### **‘176Y Part does not affect amounts owing relating to lease**

‘To remove any doubt, it is declared that the following do not limit or otherwise affect a lessee’s obligation to pay rent or another amount owing in relation to a lease—

- (a) an application under this part about the lease, other than an application under section 154;
- (b) the ending, under this part, of the lease.

**‘176Z When payment obligations end if lease ends under part**

‘If a lease ends under this part, an obligation to pay future rent and other amounts that may become payable in relation to the lease stops on the day before the day on which lease ended.

**‘176ZA Overpayments relating to former lease**

- ‘(1) This section applies if a lease ends under this part and, because of section 176Z, an amount has been overpaid for rent or another amount relating to the former lease.
- ‘(2) If a new lease is issued under this part in relation to the former lease, the amount must be credited to rent or other amounts payable under the new lease.
- ‘(3) Otherwise, the amount must be refunded to the person who made the payment.
- ‘(4) This section applies despite section 191.’.

**88 Amendment of ch 4, pt 4 hdg (Permits)**

Chapter 4, part 4, heading, after ‘Permits’—

*insert—*

**‘to occupy particular land’.**

**89 Amendment of s 177 (Chief executive may issue permit)**

- (1) Section 177—

*insert—*

- ‘(4A) The permit may be issued for 2 or more reserves if the reserves—
    - (a) have been dedicated for the same purpose; and
    - (b) are held by the same trustee.’.
  - (2) Section 177(6)—
- omit, insert—*
- ‘(6) A permit may be issued only if it is for 1 type of land mentioned in subsection (1).

- ‘(7) A permit for a term of not more than 12 months need not be registered.
- ‘(8) If a permit for a term of 12 months or more is issued for unallocated State land or a reserve, the chief executive must keep a record of its issue in the appropriate register.
- ‘(9) The chief executive may issue a permit without receiving an application under section 177A.’.
- (3) Section 177(4A) to (8)—  
*renumber* as section 177(5) to (10).

## **90 Insertion of new ss 177A–177D**

Chapter 4, part 4—

*insert—*

### **‘177A Applying for permit**

‘A person may apply for a permit to occupy unallocated State land, a reserve or a road.

### **‘177B Notice of intention to issue permit**

- ‘(1) If the chief executive proposes to issue a permit, written notice of the proposal—
  - (a) must be given to each of the following—
    - (i) for a permit for a reserve—the trustee of the reserve;
    - (ii) for a permit for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered;
    - (iii) for a permit for a road that is under the control of a local government—the local government;
    - (iv) another entity with a registered interest in the proposed permit land; and
  - (b) may be given to any other entity the chief executive considers has an interest in the proposed permit land.
- ‘(2) The notice must—

- (a) be in the approved form; and
- (b) state the following—
  - (i) the reason for the proposed issue of the permit;
  - (ii) that the entity given the notice may make a submission against the proposal to the chief executive;
  - (iii) that the submission must be in the approved form;
  - (iv) the closing day for the submission;
  - (v) the place where or the way the submission must be lodged.

‘(3) In this section—

*State-controlled road* means a road or land, or part of a road or land, declared under the *Transport Infrastructure Act 1994*, to be a State-controlled road.

### ‘177C Submissions

- ‘(1) An entity given a notice under section 177B about the proposed issue of a permit may make a submission against the proposal to the chief executive.
- ‘(2) The submission must—
  - (a) be in the approved form; and
  - (b) be received by the closing day for the submission stated in the notice; and
  - (c) be lodged at the place or in the way stated in the notice.
- ‘(3) The chief executive must consider all submissions received under this section before issuing the permit.

### ‘177D Notice of permit

- ‘(1) If the chief executive issues a permit, written notice of its issue must be given to each entity given a notice about the permit under section 177B.
- ‘(2) If the permit is for a term of 12 months or more, the notice must state the day the permit was registered.’

**91 Replacement of s 180 (Cancellation or surrender of permit)**

Section 180—

*omit, insert—*

**‘180 When permit may be cancelled or surrendered**

‘(1) A permit may be cancelled if—

- (a) the permittee contravenes a provision of this Act in relation to the permit; or
- (b) the permittee has more than 1 conviction, not including any spent convictions, for a vegetation clearing offence, regardless of whether any of the offences were committed on the permit land; or
- (c) the Minister considers the cancellation is in the interests of the State.

‘(2) A permittee may surrender a permit—

- (a) on terms agreed to between the chief executive and the permittee; and
- (b) with the chief executive’s written approval.

**‘180A Applying to cancel or surrender permit**

‘(1) A relevant entity for a permit may apply to cancel the permit.

‘(2) A permittee may apply to surrender the permit.

‘(3) In this section—

*relevant entity*, for a permit, means all of the following—

- (a) a public utility provider;
- (b) if the permit land is a reserve—the trustee of the reserve;
- (c) if the permit land is a road—an adjoining owner of land adjoining the road.

**‘180B Notice of proposal to cancel or approve surrender**

‘(1) If the chief executive proposes to cancel or approve the surrender of a permit, written notice of the proposal—

- (a) must be given to each of the following—
    - (i) the permittee;
    - (ii) for an application to cancel a permit—the applicant;
    - (iii) another entity with a registered interest in the permit land; and
  - (b) may be given to any other entity the chief executive considers has an interest in the permit land.
- ‘(2) The notice must—
- (a) be in the approved form; and
  - (b) state the reason for the proposed cancellation or surrender; and
  - (c) for an application to cancel a permit, state the following—
    - (i) that the entity given the notice may make a submission against the proposed cancellation to the chief executive;
    - (ii) that the submission must be in the approved form;
    - (iii) the closing day for the submission;
    - (iv) the place where or the way the submission must be lodged.

### **‘180C Submissions**

- ‘(1) An entity given a notice under section 180B of a proposal to cancel a permit may make a submission against the proposed cancellation to the chief executive.
- ‘(2) The submission must—
  - (a) be in the approved form; and
  - (b) be received by the closing day for the submission stated in the notice; and
  - (c) be lodged at the place or in the way stated in the notice.
- ‘(3) The chief executive must consider all submissions received under this section before cancelling the permit.

**‘180D When cancellation or surrender is effective**

- ‘(1) A permit may be cancelled by registering a cancellation notice for the permit.
- ‘(2) A permit may be surrendered by registering a surrender notice for the permit.
- ‘(3) The cancellation or surrender takes effect on the day the cancellation notice or surrender notice is registered.

**‘180E Notice about cancellation or surrender**

- ‘(1) Written notice of the cancellation or surrender of a permit must be given to—
  - (a) the permittee; and
  - (b) another entity given a notice under section 180B about the proposed cancellation or surrender.
- ‘(2) The notice under subsection (1) must state all of the following—
  - (a) the day the cancellation or surrender has effect;
  - (b) that the permit is ended and the permittee is divested of any interest in the permit land;
  - (c) if the notice is about the cancellation of a permit—no compensation is payable for the cancellation;
  - (d) if there are improvements on the permit land owned by the permittee—that the permittee may apply to remove the improvements.
- ‘(3) If the chief executive decides not to cancel or surrender a permit, written notice of the fact must be given to each entity given a notice under section 180B about the proposed cancellation or surrender.

**‘180F Effect of cancellation or surrender**

‘On the cancellation or surrender of a permit—

- (a) the permit ends; and
- (b) the permittee is divested of any interest in the permit land; and

- (c) if the permit is cancelled—no compensation is payable for the cancellation.

### **‘180G Permittee to give up possession on cancellation or surrender**

- ‘(1) On the cancellation or surrender of a permit, the permittee must immediately vacate the permit land.
- ‘(2) If the permittee does not give up possession under subsection (1), and is not otherwise entitled to be in possession, the permittee is a person who is unlawfully occupying the land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

### **‘180H Dealing with improvements**

- ‘(1) A permittee for a permit that is cancelled or surrendered may apply to remove the permittee’s improvements on the permit land.
- ‘(2) The permittee may remove the improvements only—
- (a) with the written approval of the chief executive; and
  - (b) within the period stated in the approval.
- ‘(3) The improvements become the property of the State unless they are removed under subsection (2).’.

## **92 Amendment of s 181 (Rent periods)**

Section 181—

*insert—*

- ‘(4) Also, if the annual rent for a lease, licence or permit is more than the amount prescribed under a regulation, the rental period for the lease, licence or permit may be divided into the sub-periods prescribed under a regulation for the payment of the rent.’.

## **93 Amendment of s 183 (Rent payable generally)**

- (1) Section 183(1), from ‘amount’, second mention—

*omit, insert—*

‘valuation for rental purposes prescribed under a regulation by the rate prescribed under a regulation.’.

- (2) Section 183(2)(b)—

*omit, insert—*

‘(b) a lease, licence or permit for which there is a set rent.’.

#### **94 Amendment of s 183A (Rent payable in special cases)**

- (1) Section 183A, heading—

*omit, insert—*

##### **‘183A Set rents’.**

- (2) Section 183A(3), ‘Minister may also’—

*omit, insert—*

‘designated officer may’.

- (3) Section 183A(1) and (2)—

*omit.*

#### **95 Insertion of new s 183AA**

After section 183A—

*insert—*

##### **‘183AA Protection against particular undue rental increases**

- ‘(1) This section applies if—
- (a) after applying section 183(1) to a category of leases, licences or permits (*relevant tenures*), there is an increase in rents for the category for a rental year (the *current year*); and
  - (b) the Minister considers the increase is an undue increase.
- ‘(2) The Minister may decide that the amount of the current year’s rent for all relevant tenures, other than an excluded tenure for the current year, is the lesser of the following—
- (a) the rent worked out by applying section 183(1);

(b) the rent worked out using the formula—

$$\mathbf{RCY = RPY + (RPY \times PP)}$$

where—

**RCY** means the amount of the rent.

**RPY** means—

- (a) if the relevant tenure existed during the previous year—that year’s annual rent for the relevant tenure; or
- (b) if the relevant tenure did not exist during the previous year but had a corresponding tenure for that year—that year’s notional annual rent for the corresponding tenure.

**PP** means the percentage for the category, as prescribed under a regulation.

‘(3) In this section—

**corresponding tenure**, for a relevant tenure, means a former lease, licence or permit, whether or not of the same area as the relevant tenure, that was ended for the purpose of changing its area, issuing a new tenure or for a renewal or conversion under this Act and because of which change, issuing renewal or conversion the relevant tenure was created.

**excluded tenure**, for the current year, means—

- (a) a freeholding lease; or
- (b) a relevant tenure for which there is a set rent; or
- (c) a relevant tenure that, during the previous year, did not exist and had no corresponding tenure.

*Note*—

For freeholding leases see chapter 8, part 2. For other excluded tenures, see sections 183 and 183A.

**notional annual rent**, for the previous year of a corresponding tenure of a relevant tenure, means the rent for each hectare of the corresponding tenure’s area multiplied by the area of the relevant tenure.

**previous year** means the rental year that immediately preceded the current year.’

**96 Amendment of s 185 (Development and Investigation concessions)**

Section 185, ‘Minister’—

*omit, insert—*

‘designated officer’.

**97 Amendment of s 190 (When rent is owing)**

Section 190(1), ‘under the regulations.’—

*omit, insert—*

‘under a regulation, unless the chief executive is satisfied that, because of exceptional circumstances, the payment can not be made by the prescribed time or at the prescribed place.

*Examples of possible exceptional circumstances—*

civil disturbance, computer failure, extreme climatic conditions and industrial action’.

**98 Amendment of s 192 (Deferral of rent and instalment payments for hardship)**

(1) Section 192(1), from ‘defer’ to ‘lease or licence’—

*insert—*

‘on the application of a lessee or licensee, defer, wholly or partly, the payment of rent or instalments for the lessee’s lease or licensee’s licence’.

(2) Section 192(2)—

*omit, insert—*

‘(2) The Minister may grant the application only if the applicant gives the Minister—

(a) the returns and financial statements that the Minister asks for to help decide the application; or

(b) evidence that the applicant is receiving, for the hardship mentioned in subsection (1)(a)(i), financial assistance under a State or Commonwealth scheme.

*Example of a scheme—*

the exceptional circumstances scheme under the *Rural and Regional Adjustment Act 1994*'.

**99 Amendment of s 195 (Penalty interest on outstanding rent and instalments)**

Section 195(2), 'Minister'—

*omit, insert—*

'designated officer'.

**100 Amendment of s 196 (Minister may take action for non-payment)**

(1) Section 196, heading, 'Minister'—

*omit, insert—*

**'Designated officer'**.

(2) Section 196, 'Minister'—

*omit, insert—*

'designated officer'.

(3) Section 196(b), after 'part 4'—

*insert—*

', division 2'.

**101 Amendment of s 197 (Notice of intention to cancel)**

(1) Section 197, 'Minister'—

*omit, insert—*

'designated officer'.

(2) Section 197(1), 'Minister's'—

*omit, insert—*

'designated officer's'.

**102 Amendment of s 198 (Minister may reinstate if payment made)**

- (1) Section 198, heading ‘Minister’—

*omit, insert—*

**‘Designated officer’.**

- (2) Section 198, ‘the Minister’—

*omit, insert—*

‘the designated officer’.

**103 Insertion of new ch 5, pt 1A**

Chapter 5—

*insert—*

**‘Part 1A Future conservation areas****‘198A Management principles**

- ‘(1) The management principles for future conservation areas are—

- (a) that any use of their natural resources for agriculture or grazing is to be ecologically sustainable; and
- (b) that they are to be maintained predominantly in their natural condition; and
- (c) that their significant cultural and natural resources are to be protected.

- ‘(2) In this section—

***cultural resources***, for a future conservation area, means places or objects that have anthropological, archaeological, historical, scientific, spiritual or sociological significance or value, including such significance or value under Aboriginal tradition or Island custom.

***ecologically sustainable***, for the use of the natural resources of a future conservation area for agriculture or grazing, means the use is within the area’s capacity to sustain natural processes while—

- (a) maintaining the life support systems of nature; and
- (b) ensuring the benefit of the use to present generations does not diminish the potential to meet the needs and aspirations of future generations.

*natural resources*, for a future conservation area, means the natural and physical features of the area, including wildlife, soil, water, minerals and air.

### **‘198B Protection of reservation for future conservation area**

‘If a lease contains a reservation for a future conservation area the lessee must not do an act or make an omission, or allow someone else to do an act or make an omission, that is inconsistent with the management principles under section 198A for future conservation areas.

Maximum penalty—1665 penalty units.’.

## **104 Replacement of ch 5, pt 2, div 1 hdg (General conditions)**

Chapter 5, part 2, division 1 heading—

*omit, insert—*

### **‘Division 1 General mandatory conditions**

#### **‘198C Operation of div 1**

- ‘(1) This division provides for particular conditions of leases, licences and permits.
- ‘(2) Each condition under this division or under another provision mentioned in schedule 1A, that applies to a lease, licence or permit is a *mandatory condition* of the lease, licence or permit.
- ‘(3) This division does not limit the conditions that the designated officer may, under division 2 or another provision of this Act, impose on a lease, licence or permit.

**‘198D Mandatory conditions need not be registered**

‘To remove any doubt, it is declared that a mandatory condition of a lease, licence or permit binds the lessee, licensee or permittee even though the condition is not registered.’.

**105 Amendment of s 199 (Duty of care condition)**

Section 199—

*insert—*

- ‘(2) If a lease is issued for agricultural, grazing or pastoral purposes, the lessee’s duty of care includes that the lessee must take all reasonable steps to do the following in relation to the lease land—
- (a) avoid causing or contributing to land salinity that—
    - (i) reduces its productivity; or
    - (ii) damages any other land;
  - (b) conserve soil;
  - (c) conserve water resources;
  - (d) protect riparian vegetation;
  - (e) maintain pastures dominated by perennial and productive species;
  - (f) maintain native grassland free of encroachment from woody vegetation;
  - (g) manage any declared pest;
  - (h) conserve biodiversity.’.

**106 Insertion of new s 199A**

After section 199—

*insert—*

**‘199A Land may be used only for tenure’s purpose**

- ‘(1) Lease land, licence land or permit land may be used only for the purpose for which the lease, licence or permit was issued.

- ‘(2) A term lease for pastoral purposes must be used only for agricultural or grazing purposes, or both.
- ‘(3) Subsections (1) and (2) are subject to section 154.’.

## **107 Replacement of ch 5, pt 2, div 2 hdg (Other conditions)**

Chapter 5, part 2, division 2 heading—

*omit, insert—*

### **‘Division 2 Imposed conditions**

#### **‘202A Operation of div 2**

- ‘(1) This division provides for conditions that may be imposed on leases, licences and permits.
- ‘(2) Each condition decided as a condition of a lease, licence or permit under this division, division 3, section 159, 167, 176A, 176L, 214E or a transition to sale agreement is an *imposed condition* of the lease, licence or permit.
- ‘(3) An imposed condition of a lease, licence or permit binds the lessee, licensee or permittee as well as any mandatory condition of the lease, licence or permit.
- ‘(4) This section is subject to section 202B.

#### **‘202B Imposed condition must be registered**

‘A condition decided under this division, section 159, 167, 176A, 176L, 214E or a transition to sale agreement becomes an imposed condition of a lease, licence or permit and binds the lessee, licensee or permittee only if the condition is registered.’.

## **108 Amendment of s 203 (Typical conditions)**

- (1) Section 203(g)—  
*renumber* as section 203(h).
- (2) Section 203—  
*insert—*

‘(g) about the preparation, maintenance, implementation and review of a land management agreement.’.

**109 Replacement of ch 5, pt 2, div 3 hdg (Changing conditions)**

Chapter 5, part 2, division 3, heading—

*omit, insert—*

**‘Division 3 Changing and reviewing imposed conditions’.**

**110 Replacement of s 210 (Changing conditions)**

Section 210—

*omit, insert—*

**‘210 Power to change imposed condition of lease, licence or permit by agreement**

- ‘(1) The designated officer for a lease, licence or permit may, with the lessee’s, licensee’s or permittee’s agreement, change an imposed condition of the lease, licence or permit.
- ‘(2) A lessee, licensee or permittee may apply for a change under this section.
- ‘(3) The application must be accompanied by the written consent of all persons with a registered interest in the lease land.
- ‘(4) However, consent under subsection (3) must not be unreasonably withheld.
- ‘(5) A change made under this section must be registered.
- ‘(6) The change has no effect until it is registered.
- ‘(7) Once the change is registered, the imposed condition is taken to be the condition as amended by the change.
- ‘(8) No fee is payable for registering the change.
- ‘(9) In this section—  
*change*, an imposed condition, includes extending the period within which the condition must be complied with.’.

**111 Replacement of s 211 (Conditions must be reviewed)**

Section 211—

*omit, insert—***‘211 Reviewing imposed conditions of lease**

- ‘(1) If, under section 176X, the Minister is reviewing a land management agreement for a lease, the Minister must also review the imposed conditions of the lease.
- ‘(2) If a lease is not a lease of rural leasehold land and there is no land management agreement for the lease, the Minister must consider whether to carry out a review (a *standard review*) of the imposed conditions of the lease at least once every 15 years after the lease started.
- ‘(3) However, a standard review must not be made within 10 years after the lease started or after its last standard review.
- ‘(4) A review under this section must be carried out in consultation with the lessee.’.

**112 Amendment of s 212 (Minister may change conditions after review)**

- (1) Section 212, heading, ‘conditions’—

*omit, insert—***‘imposed conditions’.**

- (2) Section 212(1), ‘a condition’—

*omit, insert—***‘an imposed condition’.**

- (3) Section 212, ‘land’—

*omit, insert—***‘lease land’.**

- (4) Section 212(4) to (6)—

*omit, insert—*

- ‘(4) On the first business day after the appeal expiration day for the decision, the change must be lodged for registration.

- ‘(5) The change has no effect until it is registered.
- ‘(6) Once the change is registered, the imposed condition is taken to be the condition as amended under the change.
- ‘(6A) No fee is payable for registering the change.’.

### 113 Replacement of ss 213 and 214

Sections 213 and 214—

*omit, insert—*

#### ‘213 Obligation to perform conditions

- ‘(1) A lessee, licensee or permittee must perform all of the conditions of the person’s tenure, to the satisfaction of the designated officer for the type of tenure.
- ‘(2) If the lessee, licensee or permittee does not comply with subsection (1) the tenure may be cancelled or forfeited.
- ‘(3) However, if the tenure is a lease, subsection (2) does not apply to a failure to comply with a land management agreement for the lease.

*Note—*

A breach of a condition of a lease that the lessee comply with a land management agreement for the lease may be dealt with by a remedial action notice.

- ‘(4) To remove any doubt, it is declared that if no action is taken on a breach of condition of the tenure, it is not a waiver of, authorisation of or excuse for the breach.
- ‘(5) In this section—

***conditions***, of a tenure, means all of its mandatory condition and imposed conditions.

***tenure*** means—

- (a) for a lessee—the lessee’s lease; or
- (b) for a licensee—the licensee’s licence; or
- (c) for a permittee—the permittee’s permit.

## ‘Division 5

## Remedial action

**‘214 Minister’s power to give remedial action notice**

‘(1) The Minister may give a lessee or licensee a written notice (a *remedial action notice*) to take stated remedial action, within the reasonable time stated in the notice, if—

- (a) a ground for giving the notice exists; and
- (b) section 214A has been complied with.

‘(2) For subsection (1)(a) a ground for giving the notice is that—

- (a) the Minister is satisfied the lessee or licensee is—
  - (i) using the lease land or licence land—
    - (A) in a way that is not fulfilling the lessee’s or licensee’s duty of care for the land, under section 199; or
    - (B) in a way that is likely to cause, or that has caused, land degradation; or
  - (ii) breaching a condition of the lease or licence, other than a condition that there must be a land management agreement for the lease; or

*Note—*

A lease may be forfeited under section 234(b) for breach of a condition of the lease that there must be a land management agreement for the lease.

- (iii) in contravention of a provision of this Act in relation to the lease or licence; or
  - (b) the Minister has carried out a review under section 176X and, because of the review, the Minister considers that the stated remedial action is necessary or desirable.
- ‘(3) If the notice relates to a lease and there is a land management agreement for the lease, the remedial action may include requiring the lessee to enter into an amended or a new land management agreement for the lease that includes stated provisions.
- ‘(4) The lessee or licensee must be given a written notice of the decision to give the remedial action notice and the reasons for the decision.

**‘214A Steps required before giving remedial action notice**

- ‘(1) This section applies if the Minister proposes to give a lessee or licensee a remedial action notice.
- ‘(2) The Minister must give the lessee or licensee a notice (a **warning notice**) stating each of the following—
  - (a) that the Minister proposes to give the lessee or licensee a remedial action notice;
  - (b) the remedial action under the proposed remedial action notice;
  - (c) the grounds for giving the proposed remedial action notice;
  - (d) the facts and circumstances that are the basis for the grounds;
  - (e) that the lessee or licensee may, within the reasonable period stated in the warning notice, make written submissions to show why the proposed remedial action notice should not be given.
- ‘(3) The submissions may include a plan (a **remedial action plan**) for the taking of action to remedy the ground for the giving of the remedial action notice.
- ‘(4) The Minister must consider any written submissions made under subsection (3) within the stated period.
- ‘(5) The Minister may give the remedial action notice if, after complying with subsection (4), the Minister still believes the notice ought to be given.
- ‘(6) Without limiting subsection (5), the Minister may give the remedial action notice if the lessee or licensee does not, at any time, comply with any remedial action plan included in the submissions.
- ‘(7) The remedial action required under the remedial action notice may be different to the remedial action stated in the warning notice.

**‘214B Appeal against decision to give remedial action notice**

‘A lessee or licensee to whom a remedial action notice has been given may appeal against the decision to give the notice.

**‘214C Additional condition of lease or licence to take required remedial action**

- ‘(1) This section applies if a lessee or licensee is given a remedial action notice.
- ‘(2) The notice must be registered.
- ‘(3) On registration of the notice, it is a condition of the lease or licence the subject of the notice that the lessee or licensee must, from the day the notice is given, take the action required under the notice.
- ‘(4) However, if any appeal against the decision to give the notice is upheld—
  - (a) the notice is cancelled and it is taken never to have been registered or to have had any effect; and
  - (b) the cancellation must be registered; and
  - (c) the condition is taken never to have been a condition of the lease.
- ‘(5) No compensation is payable by the State in relation to the condition or anything required to be done under the notice before its cancellation.
- ‘(6) No fee is payable for registration under this section.

**‘214D Failure to comply with remedial action notice**

- ‘(1) A lessee or licensee to whom a remedial action notice has been given must comply with the notice unless the lessee or licensee has a reasonable excuse.  
Maximum penalty—400 penalty units.
- ‘(2) If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty for the offence, order (a *remedial action order*) the person to comply with all or part of the remedial action notice.

**‘214E Power to reduce term of lease or impose additional conditions**

- ‘(1) This section applies if a lessee is convicted of an offence against section 214D(1), whether or not a remedial action order is made.
- ‘(2) The Minister may decide to do all or any of the following—
  - (a) reduce the term of the relevant lease;
  - (b) impose additional conditions on the lease.
- ‘(3) However, the Minister can not reduce the term by an amount that results in the lease no longer having an unexpired term.

*Note—*

Under section 234(f), a breach of a remedial action order is a ground for forfeiting a lease.

- ‘(4) If the relevant lease is a perpetual lease, the reduction may be made by changing the lease to a term lease of a stated term.

**‘214F Provisions about reduction or additional conditions**

- ‘(1) This section applies if, under section 214E(2), the Minister decides to reduce the term of, or impose additional conditions on, a lease.
- ‘(2) The lessee must be given a written notice of the decision and the reasons for it.
- ‘(3) The lessee may appeal against the decision.
- ‘(4) The decision does not take effect until the first business day after the appeal expiration day for the decision.
- ‘(5) As soon as practicable after the decision takes effect, the reduction or additional conditions must be registered.
- ‘(6) The reduction or additional conditions have effect from their registration.
- ‘(7) No fee is payable for registration under this section.
- ‘(8) No compensation is payable by the State for the reduction or the imposition of the additional conditions.’.

**114 Amendment of s 234 (When lease may be forfeited)**

- (1) Section 234(b), from ‘lease’—

*omit, insert—*

‘lease, other than a condition that the lessee comply with a land management agreement for the lease; or

*Note—*

A breach of the condition that the lessee comply with a land management agreement for the lease may be dealt with by a remedial action notice.’.

- (2) Section 234(e)—

*omit, insert—*

‘(e) if the lessee has—

- (i) more than 1 conviction, not including any spent convictions, for a vegetation clearing offence, regardless of whether any of the offences were committed on lease land; or
  - (ii) at least 1 conviction, not including any spent convictions, for an offence committed on the lease land against section 198B; or
- (f) if the lessee fails to comply with a remedial action order relating to the lease.’.

**115 Amendment of ch 5, pt 4, div 2 hdg (Forfeiture of leases, generally)**

Chapter 5, part 4, division 2, heading, ‘, generally’—

*omit, insert—*

**‘for non-payment’.**

**116 Replacement of s 234A (Non-application of div 2)**

Section 234A—

*omit, insert—*

**‘234A Application of div 2**

‘This division applies to the forfeiture of a lease under section 234(a).’.

**117 Amendment of s 235 (Notice of forfeiture for outstanding amounts)**

Section 235(1), ‘and any mortgagee’—  
*omit, insert—*

‘, any mortgagee and any relevant local government’.

**118 Amendment of s 236 (Minister’s options if amount unpaid)**

(1) Section 236, heading, ‘Minister’s’—

*omit, insert—*

‘**Designated person’s**’.

(2) Section 236, from ‘Minister’—

*omit, insert—*

‘designated person may forfeit the lease or allow any mortgagee, any relevant local government or the chief executive to sell the lease under division 3A.’.

**119 Insertion of new ch 5, pt 4, div 2A hdg and s 237A**

Chapter 5, part 4, before section 238—

*insert—*

**‘Division 2A                      Forfeiture of leases by referral to court****‘237A Application of div 2A**

‘This division applies to the forfeiture of a lease under section 234(b), (c), (d) or (f).’.

**120 Amendment of s 238 (Application to the court for forfeiture)**

- (1) Section 238(1), from ‘a lease’ to ‘the lease,’—  
*omit, insert—*  
‘the lease is forfeited.’
- (2) Section 238(2), ‘and any mortgagee’—  
*omit, insert—*  
‘, any mortgagee and any relevant local government’.

**121 Amendment of s 239 (Governor in Council’s options if court decides on forfeiture)**

- (1) Section 239, heading, ‘Governor in Council’s’—  
*omit, insert—*  
‘**Designated person’s**’.
- (2) Section 239, ‘Governor in Council’—  
*omit, insert—*  
‘designated person’.
- (3) Section 239(b)(i), ‘additional’—  
*omit.*
- (4) Section 239(b)(iv), ‘the mortgagee’—  
*omit, insert—*  
‘any mortgagee, any relevant local government or the chief executive’.
- (5) Section 239—  
*insert—*  
‘(2) A mortgagee of a term or a perpetual lease may appeal against a decision under subsection (1)(b)(iv) to allow an entity other than the mortgagee to sell the lease.  
(3) A relevant local government of a term or a perpetual lease may appeal against a decision under subsection (1)(b)(iv) to allow an entity other than the relevant local government to sell the lease.’

**122 Omission of s 240 (Publication of notice of forfeiture)**

Section 240—

*omit.*

**123 Amendment of ch 5, pt 4, div 3, hdg (Forfeiture of leases for repeated convictions for vegetation clearing offences)**

Chapter 5, part 4, div 3, heading, from ‘for repeated’ —

*omit, insert—*

**‘on conviction’.**

**124 Omission of s 240E (Publication of notice of forfeiture)**

Section 240E—

*omit.*

**125 Insertion of new ch 5, pt 4, div 3A**

Chapter 5, part 4, before division 4 heading—

*insert—*

**‘Division 3A Sale of lease instead of forfeiture****‘Subdivision 1 Sale by lessee****‘240E Sale by lessee**

‘(1) After receiving a notice under section 235(1) or 238(2), a lessee of a lease may make written application for permission to sell the lease.

‘(2) If the Minister approves the sale of the lease by the lessee, the Minister must give written notice of the Minister’s approval to any mortgagee and any relevant local government.

**‘Subdivision 2 Sale by mortgagee**

### **‘Subdivision 3 Sale by local government**

#### **‘240G Application**

- ‘(1) After receiving a notice under section 235(1) or 238(2), a relevant local government may apply to the Minister for approval to sell a lease.
- ‘(2) However, a relevant local government may only apply to sell a lease under subsection (1) if the lessee of the lease has an overdue rate payable to the relevant local government for the lease land.
- ‘(3) If the Minister approves the sale of the lease by the local government, the Minister must give written notice of the Minister’s approval to the lessee and any mortgagee.
- ‘(4) In this section—

*overdue rate* has the meaning given by the *Local Government Act 1993*, section 1016.<sup>4</sup>

#### **‘240H Notice of approval**

- ‘(1) If the Minister approves the sale of the lease by the relevant local government under this subdivision, written notice of the approval must be given to the lessee, the local government and any mortgagee.
- ‘(2) The notice must state the required period within which the local government must start the procedures for selling the lease.

#### **‘240I Sale of lease**

- ‘(1) This section applies if a relevant local government has been given notice under section 240H.

---

<sup>4</sup> *Local Government Act 1993*, section 1016 (Meaning of *overdue rate*)

- ‘(2) The Local Government Act, chapter 14, part 7, divisions 3 and 5<sup>5</sup> other than sections 1039 and 1058 apply, with necessary changes, to the sale of a lease under this subdivision.
- ‘(3) However, the required period for starting the procedures for selling a lease under this subdivision is the required period stated in the notice under section 240H(2) and not the required period stated in the Local Government Act, section 1042(2).
- ‘(4) Also, the following must be at least the total of all charges owing to the State under this Act in relation to the lease—
  - (a) the reserve price chosen under the Local Government Act, section 1044;
  - (b) the price for sale by agreement under the Local Government Act, section 1045.
- ‘(5) Further, in applying the proceeds of sale of a lease under the Local Government Act, section 1047(1), the local government must apply the proceeds to payment of charges on the lease, including any rent, instalments or penalty interest, owing to the State, in priority to all encumbrances, and in priority to the payments mentioned in the Local Government Act, section 1047(1)(b), (c) and (d).
- ‘(6) In this section—

*Local Government Act* means the *Local Government Act 1993*.

## ‘Subdivision 4      Sale by chief executive

### ‘240J Application of sdiv 4

‘This subdivision applies to a lease if the chief executive is allowed to sell the lease under section 236 or 239(1)(b)(iv).

---

5 *Local Government Act 1993*, chapter 14 (Rates and charges), part 7 (Recovery of rates), divisions 3 (Sale of land for overdue rates) and 5 (Provisions about dealing with land under this part)

**‘240K Notice that chief executive may sell**

- ‘(1) The chief executive must give written notice to each person who has a registered interest in the lease land that the chief executive is allowed to sell the lease under this subdivision.
- ‘(2) The notice must state either—
  - (a) that the chief executive proposes to enter into possession of the lease and sell the lease under this subdivision; or
  - (b) that the chief executive proposes that the lessee and the chief executive enter into an agreement (a *transition to sale agreement*) that will apply until the lease is sold under this subdivision.
- ‘(3) The notice must advise the matters mentioned in—
  - (a) if the notice states the matter mentioned in subsection (2)(a)—section 240L; or
  - (b) otherwise—sections 240L, 240M and 240N.
- ‘(4) If the notice states that the chief executive proposes that the lessee and the chief executive enter into a transition to sale agreement, the notice must require the lessee to advise the chief executive, within the time stated in the notice, of whether the lessee wishes to enter into a transition to sale agreement.

**‘240L Entry into possession and sale**

- ‘(1) This section applies if the chief executive enters into possession of the lease to sell the lease under this subdivision.
- ‘(2) The chief executive must advise the lessee that the chief executive is entering into possession.
- ‘(3) The lessee must, in the lessee’s capacity as lessee, immediately vacate the lease land.
- ‘(4) The chief executive enters into possession of the lease to the exclusion of the lessee’s interests under the lease.
- ‘(5) If the lessee does not vacate the lease land under subsection (3), and is not otherwise entitled to possession, the lessee is a person who is unlawfully occupying the lease land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

- ‘(6) Until the chief executive sells the lease, the chief executive may act in the place of the lessee for all matters in relation to the administration of the lease, including for example for all matters concerning the holders of any subleases over the lease.
- ‘(7) The Minister may, for the proper administration of the lease until it is sold, change the imposed conditions as they apply to the lease, and may take action to have the changed conditions registered.
- ‘(8) Despite subsection (6), the chief executive does not become liable to pay any amounts payable by the lessee in relation to the lease.
- ‘(9) Without limiting subsection (8), the chief executive is not liable to pay any amount payable by the lessee to the holder of any registered interest in the lease.
- ‘(10) While the chief executive is in possession, any amounts otherwise payable to the lessee by any person in relation to the lease, including rent payable by a sublessee, must be paid to the chief executive.
- ‘(11) The chief executive must execute the transfer of the lease.

#### **‘240M Transition to sale agreement**

- ‘(1) This section applies if the lessee and the chief executive enter into a transition to sale agreement.
- ‘(2) Until the chief executive sells the lease, the following apply—
  - (a) the Minister may carry out a review of the imposed conditions of the lease as they apply to the lessee;
  - (b) the Minister may, for the proper administration of the lease until it is sold, change the imposed conditions as they apply to the lessee, and may take action to have the changed conditions registered;
  - (c) the lessee must not, without the Minister’s written approval, further deal with the lease;
  - (d) to the extent stated in the agreement—

- (i) the lessee continues to pay rent payable under the lease; and
  - (ii) the lessee continues to receive rent and other amounts otherwise payable to the lessee in the lessee's capacity as lessee; and
  - (iii) the lessee remains in possession of the lease land; and
  - (iv) the chief executive and other persons authorised by the chief executive may enter the lease land, including for purposes connected with the chief executive's sale of the lease; and
  - (v) improvements may be dealt with, and development work may be performed, by the lessee or the chief executive; and
  - (vi) the lessee must perform tasks directed to the ongoing day to day administration of the lease, including the maintenance of the lease land;
- (e) the remedies for or consequences of a breach of the agreement are those stated in the agreement.
- '(3) The chief executive must execute the transfer of the lease.
- '(4) When the transfer of the lease is registered, the chief executive must cancel the registration of the transition to sale agreement.
- '(5) If the lessee is in possession of the lease when the transfer of the lease is registered, subject to the transition to sale agreement, the lessee must immediately vacate the lease land.
- '(6) If the lessee does not vacate the lease land under subsection (5), and is not otherwise entitled to possession, the lessee is a person who is unlawfully occupying the lease land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

### **'240N Advice about entering transition to sale agreement**

- '(1) This section applies if the written notice under section 240K (the **240K notice**) states that the chief executive proposes that the lessee and the chief executive enter into a transition to sale

agreement, and within the time stated in the 240K notice by the chief executive—

- (a) the lessee does not give written notice that the lessee wishes to enter into a transition to sale agreement; or
- (b) the lessee advises the chief executive that the lessee does not wish to to enter into a transition to sale agreement.

‘(2) This section also applies if—

- (a) the 240K notice states that the chief executive proposes that the lessee and the chief executive enter into a transition to sale agreement; and
- (b) within the time stated in the 240K notice, the lessee gives written notice that the lessee wishes to enter into a transition to sale agreement; and
- (c) the chief executive and the lessee—
  - (i) within the time stated for this subparagraph in the 240K notice or a longer time approved by the chief executive, do not execute a transition to sale agreement; or
  - (ii) earlier agree that the chief executive and the lessee are unable to agree on the terms of a transition to sale agreement.

‘(3) The chief executive may enter into possession of the lease and sell the lease under this subdivision unless the Minister or designated person takes action under subsection (4) or (5).

‘(4) If the lease was allowed to be sold by the chief executive under section 236, the Minister may withdraw the Minister’s decision to allow the chief executive to sell the lease, and may take other action under section 236.

‘(5) If the lease was allowed to be sold by the chief executive under section 239(1)(b)(iv), the designated person may withdraw the designated person’s decision to allow the chief executive to sell the lease, and may take other action under section 239.

**‘240O Making and registration of transition to sale agreement**

- ‘(1) The chief executive may enter into a transition to sale agreement, including any amendment of a transition to sale agreement, only with the Minister’s approval.
- ‘(2) A transition to sale agreement, including any amendment of a transition to sale agreement, has effect only if it is registered.

*Note—*

For registration of transition to sale agreements, see section 279.

**‘240P Auction or sale of lease**

- ‘(1) This section states requirements that apply for the sale of the lease by the chief executive under this subdivision.
- ‘(2) The chief executive must first offer the lease for sale by public auction.
- ‘(3) However, the chief executive may with the Minister’s written approval sell the lease by private contract.
- ‘(4) Sections 114(1), 115, 116 and 117 apply, with the necessary changes, to a sale by the chief executive under this subdivision.

*Note—*

Transfers for the sale of a lease by the chief executive are dealt with under chapter 6, part 4, division 1.

- ‘(5) The lease must not be offered for sale by public auction, and the chief executive must not enter into a contract of sale under subsection (3), until at least 28 days after the chief executive has published a sale notice under applied section 114 in a newspaper circulating generally in the locality of the lease, advising that the lease is for sale.
- ‘(6) The imposed conditions that are to apply to the lease after its sale and that are stated in the sale notice may be different from the imposed conditions applying to the lease before the sale.
- ‘(7) The consent of the holder of any registered interest in the lease is not required for the registration of the transfer of the lease.

- ‘(8) The imposed conditions that are to apply to the lease after the sale must be registered when the transfer is registered.
- ‘(9) If the sale of the lease is not completed within 2 years after this subdivision starts to apply to the lease—
  - (a) if the lease was allowed to be sold by the chief executive under section 236—the Minister may withdraw the Minister’s decision to allow the chief executive to sell the lease, and may forfeit the lease under section 236; or
  - (b) if the lease was allowed to be sold by the chief executive under section 239(1)(b)(iv)—the designated person may withdraw the designated person’s decision to allow the chief executive to sell the lease, and may forfeit the lease under section 239.

#### **‘240Q Disposal of proceeds of sale**

‘The chief executive must apply the proceeds of sale of the lease as follows—

- (a) firstly, to payment to the State of all costs properly incurred by the chief executive for the sale or any attempted sale;
- (b) secondly, to payment to the State of charges on the lease, including any rent, instalments or penalty interest, owing to the State;
- (c) thirdly, to payment to the State of all costs properly incurred by the chief executive to rectify any damage caused to the land by the lessee;
- (d) fourthly, to payment to the State of all costs properly incurred by the chief executive—
  - (i) if there was a transition to sale agreement—in the administration of the agreement; or
  - (ii) otherwise—in the administration of the lease;
- (e) fifthly, to payment to the relevant local government of overdue rates payable to the local government under the *Local Government Act 1993*, chapter 14, part 7;
- (f) lastly, to payment to the lessee.

**‘240R Protection from liability**

- ‘(1) The chief executive, and any person acting under the authority of the chief executive, does not incur civil liability for an act done, or omission made, honestly and without negligence under this subdivision.
- ‘(2) If subsection (1) prevents a civil liability attaching to a person, the liability attaches instead to the State.’.

**126 Replacement of ch 5, pt 4, div 4 hdg (Effect of forfeiture)**

Chapter 5, part 4, division 4, heading—

*omit, insert—*

**‘Division 4 Forfeiture’.****127 Insertion of new s 240S**

Chapter 5, part 4, division 4, before section 241—

*insert—*

**‘240S Notice of forfeiture**

- ‘(1) If the designated person forfeits a lease, the Minister must give the lessee and any mortgagee or relevant local government written notice that the lease is forfeited.
- ‘(2) A notice that a lease is forfeited must be published in the gazette.
- ‘(3) A lease is forfeited by the registration of a forfeiture notice.
- ‘(4) The forfeiture notice must include the particulars of the gazette notice forfeiting the lease.
- ‘(5) The forfeiture of the lease takes effect on the day the forfeiture notice is registered.
- ‘(6) In this section—

*forfeiture notice* means a notice in the approved form requesting the registrar to register the forfeiture of a lease under this Act.’.

**128 Amendment of s 241 (Effect of forfeiture)**

Section 241(c)—

*omit, insert—*

‘(c) the lease land is free of any encumbrance; and

(d) the lease land—

(i) if the lease was a State lease—remains a reserve;  
or

(ii) otherwise—becomes unallocated State land.’.

**129 Amendment of s 243 (Improvements on forfeited lease)**

(1) Section 243, before subsection (1)—

*insert—*

‘(1A) The lessee of a forfeited lease may apply to remove the lessee’s improvements on the lease.’.

(2) Section 243(1), from ‘of a forfeited’ to ‘the lease’—

*omit, insert—*

‘may remove the improvements’.

**130 Amendment of s 244 (Sale by mortgagee instead of forfeiture)**

(1) Section 244(1), ‘section 235 or 238’—

*omit, insert—*

‘section 235(1) or 238(2)’.

(2) Section 244(2)—

*omit.*

(3) Section 244(3), from ‘Governor in Council’ to ‘Governor in Council’s’—

*omit, insert—*

‘Minister approves the sale of the lease by the mortgagee, the Minister must give written notice of the Minister’s’.

(4) Section 244(3) and (4)—

*renumber* as section 244(2) and (3).

- (5) Section 244 as amended—

*relocate* and *renumber* in chapter 5, part 4, division 3A, subdivision 2 as section 240F.

**131 Amendment of s 246 (Application of division)**

- (1) Section 246(a), after ‘lease’—

*insert*—

‘that’.

- (2) Section 246(a)(i) and (iii), ‘that’—

*omit*.

- (3) Section 246(a)(ii), ‘all or part of which’—

*omit*.

- (4) Section 246(c)(i), before ‘the reserve’—

*insert*—

‘the dedication of’.

- (5) Section 246(d)(i), after ‘cancelled’—

*insert*—

‘or surrendered absolutely’.

**132 Amendment of s 249 (Payment by the State for improvements)**

Section 249(1), after ‘pastoral purposes’—

*insert*—

‘, or a term lease for agricultural or grazing purposes of a type mentioned in section 160A(1),’.

**133 Insertion of new ch 5, pt 6**

Chapter 5—

*insert*—



- (a) that stated land was, at a stated time, or during a stated period, a monitoring site established on stated lease land, licence land or permit land;
- (b) that, at the time or during the period, all or any of the following applied—
  - (i) a marker for the monitoring site was installed or placed at the monitoring site;
  - (ii) the marker complied with section 252(3)(a), (b) and (c);
  - (iii) a monitoring device was installed or placed at the monitoring site.’.

**134 Amendment of s 275 (Registers comprising land registry)**

Section 275(d)—

*omit, insert—*

‘(d) a register of unallocated State land;’.

**135 Amendment of s 276 (Registers to be kept by chief executive)**

Section 276(d)—

*omit, insert—*

‘(d) a register of unallocated State land;’.

**136 Insertion of new s 277A**

After section 277—

*insert—*

**‘277A Registration of document evidencing tenure**

‘(1) If any of the following tenures are granted under this Act—

- (a) a lease;
- (b) a licence
- (c) a permit for a term of 12 months or more;

the tenure document for the tenure must be registered.

- ‘(2) If a reserve is dedicated under this Act, the document evidencing the dedication must be registered.’.

**137 Amendment of s 278 (Particulars that must be recorded)**

- (1) Section 278 heading, ‘recorded—  
*omit, insert—*  
**‘registered’**.
- (2) Section 278, ‘record in each’—  
*omit*.
- (3) Section 278(a), ‘recorded in the register’—  
*omit, insert—*  
**‘registered’**.
- (4) Section 278(d), ‘needed to be recorded’—  
*omit, insert—*  
**‘required or needed to be registered’**.

**138 Replacement of s 279 (Recording issue and end of tenures)**

Section 279—  
*omit, insert—*

**‘279 Registration of land management agreements and transition to sale agreements**

- ‘(1) This section applies if an agreement mentioned in section 176U(1) or 240P in relation to a lease is made or amended.
- ‘(2) The following must be registered while the lease continues in force—
- (a) the agreement;
  - (b) any amendment of the agreement from time to time;
  - (c) any cancellation or other ending of the agreement.’.

**139 Amendment of s 286B (Requiring plan of survey to be lodged)**

Section 286B(1)(b), ‘land the subject of the lease’—

*omit, insert—*

‘lease land’.

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

Section 287(1)(b)(i), ‘; or’—

*omit, insert—*

‘; and’.

**141 Amendment of s 290F (Plan of subdivision may be registered)**

(1) Section 290F(2)—

*omit, insert—*

‘(2) The plan takes effect immediately it is registered.

*Example—*

A lot defined in the plan is created as a lot when the plan is registered.’.

(2) Section 290F(5), after ‘section 360’—

*insert—*

‘or 360A’.

(3) Section 290F—

*insert—*

‘(6) This section applies subject to section 290FA.’.

**142 Insertion of new s 290FA**

After section 290F—

*insert—*

**‘290FA Taking effect of plan of subdivision**

‘(1) This section applies if—

- (a) the particulars of a plan of subdivision are recorded in the relevant register; and
  - (b) the registration of the plan of subdivision is for the purpose of the issue of a deed of grant, a deed of grant in trust or a lease over 1 or more of the lots created by the plan.
- ‘(2) Although the plan of subdivision is registered, it does not take effect as a plan of subdivision until the particulars of the deed of grant, deed of grant in trust or lease are recorded in the appropriate register.
- ‘(3) If the particulars of an issued deed of grant, deed of grant in trust or lease are not recorded in the appropriate register, the chief executive may, when the chief executive considers it appropriate to do so, cancel the registration of the plan of subdivision.
- ‘(4) If the chief executive acts under subsection (3), for the purposes of any relevant register, the plan is taken never to have been registered.’.

**143 Amendment of s 290J (Requirements for registration of plan of subdivision)**

- (1) Section 290J(1)(d) to (h)—

*omit, insert—*

- ‘(d) if it provides for any proposed public use land to be a reserve—state the community purpose of the reserve; and
- (e) comply with the *Survey and Mapping Infrastructure Act 2003*; and
- (f) be certified as accurate by a cadastral surveyor within the meaning of the *Surveyors Act 2003*; and
- (g) if any land the subject of the plan of subdivision is the subject of a lease issued under this Act, include a statement agreeing to the plan by—
  - (i) if there is a mortgagee in possession of the lease—the mortgagee in possession; or
  - (ii) otherwise—the lessee of the lease; and

- (h) if any land the subject of the plan of subdivision is the subject of an occupation licence under this Act and the licensee is surrendering all or part of the licence—include a statement agreeing to the plan by the licensee; and
  - (i) if a road is permanently closed under section 108—show the road as permanently closed; and
  - (j) if a road permanently closed is amalgamated with land under section 109(2)—show the amalgamation; and
  - (k) be consented to by the Minister; and
  - (l) be consented to by—
    - (i) each person whose interests as a registered mortgagee are affected by the plan; and
    - (ii) each person whose interests as a registered sublessee are affected by the plan; and
    - (iii) each person whose interests as a registered grantee of an easement or profit a prendre are affected by the plan; and
  - (m) include a statement identifying each lot created by the plan of subdivision that is to remain subject to the title reference for any lease, licence, reserve or unallocated State land affected by the plan.’.
- (2) Section 290J(2)(a), ‘subsection (1)(f), (g) and (h)’—  
*omit, insert—*  
‘subsection (1)(g), (h), (k) and (l)’.
- (3) Section 290J—  
*insert—*
- ‘(4) If the plan of subdivision is needed to effect the absolute or partial revocation of a reserve or the absolute or partial cancellation of an occupation licence, subsection (1)(m) does not apply.’.

**144 Replacement of s 290K (Particulars to be recorded on registration of plan)**

Section 290K—

*omit, insert—*

### **‘290JA Dedication of public use land in plan**

- ‘(1) This section applies to the dedication of land to public use in a registered plan of subdivision.
- ‘(2) If the dedication is for a reserve, the coming into effect of the plan operates, without anything further, to dedicate the land as a reserve for the community purpose or purposes stated in the plan.
- ‘(3) If the dedication is for a road, the coming into effect of the plan operates, without anything further, to open the land as a road.
- ‘(4) If the dedication is for a public use other than a road or a reserve, on the coming into effect of the plan, the land becomes unallocated State land.
- ‘(5) Subsection (6) applies to an easement over a lot if—
  - (a) the easement is an easement for providing access or a right of way, including a public thoroughfare easement; and
  - (b) the lot or a part of the lot is dedicated for a road under subsection (3).
- ‘(6) The easement is extinguished to the extent it is over the lot or the part of the lot dedicated for the road.

### **‘290JB Access for public use land**

‘A plan of subdivision providing for the dedication of a lot to public use, other than as a road, may be registered only if—

- (a) on the registration and coming into effect of the plan, access to the lot will be available through a road or a public thoroughfare easement; or
- (b) the Minister has approved that the plan of subdivision may be registered without access to the lot being available.

**‘290K Particulars to be recorded when registered plan takes effect**

‘In registering a plan of subdivision, the chief executive must record in the appropriate register—

- (a) if the boundaries of land affected by the plan of subdivision are changed on the coming into effect of the plan—any new description as identified on the reverse of the plan; and
- (b) if all or part of land affected by the plan of subdivision becomes a reserve on the coming into effect of the plan—the particulars of the reserve; and
- (c) if all or part of land affected by the plan of subdivision becomes public use land other than a reserve or road—the particulars of the unallocated State land.’.

**145 Amendment of s 294 (Chief executive may require public notice to be given of certain proposed action)**

Section 294(1) from ‘do’—

*omit, insert—*

‘register a transmission of a registered interest.’.

**146 Amendment of s 294B (Building management statement may be registered)**

- (1) Section 294B(3), ‘At least 1 of the lots’—

*omit, insert—*

‘Each lot’.

- (2) Section 294B(4)—

*omit, insert—*

‘(4) However, a building management statement that otherwise complies with subsection (3) may also apply to a lot that is not entirely or partly contained in, and does not entirely or partly contain, 1 or more buildings if the lot is the subject of a building development approval.’.

- (3) Section 294B(6), from ‘Governor’—

*omit, insert—*

‘designated person may do, or the chief executive must do, under section 360 or 360A.’<sup>6</sup>.

**147 Omission of s 296 (Tenure document to be returned to land registry)**

Section 296—

*omit.*

**148 Amendment of s 299 (When a document is registered)**

Section 299—

*insert—*

‘(2) This section applies subject to section 299A.’.

**149 Insertion of new s 299A**

Chapter 6, part 2, division 1—

*insert—*

**‘299A No registration in absence of required approval or consent of Minister**

‘(1) A document is not registered, even though the particulars about the document are recorded in the relevant register, if—

- (a) under this Act, the Minister’s approval or consent, however described, is required for the document, 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 Minister has not given written approval to the transfer

---

6 Section 360 (Governor in Council may change freeholding leases) or 360A (Minister may change term leases, other than State leases, or perpetual leases)

- (b) the terms of the document are inconsistent with the terms of any approval or consent, however described, given by the Minister in relation to the document, including any aspect of the document.
- ‘(2) If under subsection (1) a document is not registered, the chief executive may correct the particulars included in the appropriate register in relation to the document.
- ‘(3) Subsection (1) applies to an approval or consent, however described, in relation to a document, whether or not the approval or consent is required to be endorsed on the document.
- ‘(4) Subsection (1) does not affect the operation of a provision of this Act providing for the Minister to give a general authority.

*Example—*

Subsection (1) does not affect the operation of a lessee’s authority, given under section 333 (General authority to lessee for particular dealings), to sublease without seeking the Minister’s approval.’.

## **150 Omission of s 312 (Substitute document)**

Section 312—

*omit.*

## **151 Insertion of new s 318A**

After section 318—

*insert—*

### **‘318A Minister may lodge mandatory standard terms document**

- ‘(1) The Minister may act under section 318 to lodge or amend a standard terms document containing terms the Minister considers are necessary inclusions in the terms of a document creating an interest of any type under this Act.
- ‘(2) The document may state that it is a mandatory standard terms document.
- ‘(3) This section does not limit section 318.’.

**152 Insertion of new s 320A**

After section 320—

*insert—*

**‘320A Conflict with mandatory standard terms document**

- ‘(1) Section 320(2) does not apply to a standard terms document if the document is a mandatory standard terms document.
- ‘(2) If there is a conflict between a mandatory standard terms document and the terms included in another document, the mandatory standard terms document prevails.
- ‘(3) Subsection (2) applies whether the other document is the document of which the mandatory standard terms document forms part or is some other document.’.

**153 Amendment of s 321 (Withdrawal or cancellation of standard terms document)**

Section 321(2), ‘by the chief executive’—

*omit, insert—*

‘by the Minister or the chief executive’.

**154 Amendment of s 322 (Requirements for transfers)**

- (1) Section 322—

*insert—*

‘(1B) A lessee, licensee or the holder of a sublease may apply for approval to transfer a lease, licence or sublease.’.

- (2) Section 322(4)(b)(ii), ‘or licence’—

*omit, insert—*

‘and any land management agreement for the lease, or the licence’.

- (3) Section 322(4)(b)(iv), ‘or licence’—

*omit, insert—*

‘, including any land management agreement, or the licence’.

- (4) Section 322(4)(b)—

*insert—*

‘(v) if, were the transfer to be registered, section 325(4) and (5) would apply—the provisions of section 325(4) and (5).’

(5) Section 322(7)—

*omit, insert—*

‘(7) To remove any doubt, it is declared that the Minister’s approval is not needed to transfer a mortgage.

‘(8) If a lessee holds a general authority under section 333, the authority is taken to be an approval under this section for any transfer in relation to a sublease of the lease.

‘(9) In this section—

*transfer*, of a lease, licence or sublease, includes, if it is held by persons as tenants in common, a transfer by 1 or more of the tenants in common of all or part of their interest in the lease, licence or sublease to someone else.’

## 155 Insertion of new s 322A

After section 322—

*insert—*

### ‘322A Severing joint tenancy by transfer

‘(1) This section applies if a lease, licence or sublease (the *tenure*) is subject to a joint tenancy.

‘(2) Subject to section 322, any of the joint tenants of the tenure (the *severing party*), may unilaterally sever the joint tenancy by registration of a transfer to the severing party.

‘(3) The transfer need only be executed by the severing party.

‘(4) The chief executive may register the transfer only if the severing party satisfies the chief executive that a copy of the transfer has been given to all of the other joint tenants.

‘(5) On registration of the transfer, the severing party becomes entitled as a tenant in common with the other persons who were joint tenants immediately before the transfer.

- ‘(6) If, before registration of the transfer, there were more than 2 joint tenants of the tenure, the joint tenancy of the other persons is not affected.’.

## **156 Amendment of s 325 (Effect of registration of transfer)**

Section 325—

*insert—*

- ‘(2) If a land management agreement applies to a lease being transferred, on registration of the transfer—
- (a) the transferee is taken to be a party to the agreement in place of the transferor; and
  - (b) the rights and responsibilities of the transferor under the agreement become the rights and responsibilities of the transferee; and
  - (c) the lease continues to be subject to the following conditions—
    - (i) there must be a current land management agreement for the lease;
    - (ii) the lessee must comply with the agreement.
- ‘(3) Subsections (4) and (5) apply if—
- (a) the subject of the transfer is a term lease, and the lease land is rural leasehold land; and
  - (b) the transferor is a party to an indigenous land use agreement for the lease land; and
  - (c) the transfer is registered.
- ‘(4) For this Act—
- (a) the incoming lessee is taken to be a party to the indigenous land use agreement in place of the transferor; and
  - (b) the rights and responsibilities of the transferor under the agreement become the rights and responsibilities of the transferee.

- ‘(5) It is a condition of the lease that the incoming lessee must, within 28 days, give written notice of the transfer and of the effect of subsection (4) to—
- (a) the native title group and any other native title parties to the indigenous land use agreement, at their address as recorded in the ILUA register; and
  - (b) the native title registrar.’.

### **157 Insertion of new s 326A**

Chapter 6, part 4, division 1, after section 326—

*insert—*

#### **‘326A Disclosure of information to proposed transferee of lease or licensee**

- ‘(1) This section applies if an application has been made under section 322 for approval of a transfer.
- ‘(2) The Minister may give the proposed transferee under the transfer any information the Minister considers appropriate about rent or instalments paid or payable for the lease.
- ‘(3) However, the Minister must not disclose to the transferee the residential or business address or other personal details of the transferor.’.

### **158 Replacement of s 327 (Surrender of lease or deed of grant)**

Section 327—

*omit, insert—*

#### **‘327 Absolute surrender of deed of grant**

‘A registered owner may surrender, absolutely, a deed of grant—

- (a) on terms agreed to between the Minister and the registered owner; and
- (b) with the Minister’s written approval.

**‘327A Surrender of lease**

‘A lessee may surrender, absolutely or conditionally, all or part of a lease—

- (a) on terms agreed to between the Minister and the lessee; and
- (b) with the Minister’s written approval.

**‘327B Applying to surrender**

- ‘(1) A registered owner may apply to surrender a deed of grant.
- ‘(2) A lessee may apply to surrender all or part of a lease.

**‘327C Notice of proposal to approve surrender of lease**

- ‘(1) If the Minister proposes to approve a surrender of all or part of a lease, written notice of the proposal must be given to the following—
  - (a) the lessee of the lease;
  - (b) another person with a registered interest in the lease;
  - (c) another person the Minister considers should be given the notice.
- ‘(2) The notice must—
  - (a) be in the approved form; and
  - (b) state the following—
    - (i) the reason for the proposed surrender;
    - (ii) that the person given the notice may make a submission against the proposed surrender to the Minister;
    - (iii) that the submission must be made in the approved form;
    - (iv) the closing day for the submission;
    - (v) the place where or the way the submission must be lodged.

**‘327D Submissions against proposal to approve surrender**

- ‘(1) A person given notice of a proposal to surrender a lease under section 327C, other than the lessee of the lease, may make a submission against the proposal to the Minister.
- ‘(2) The submission must—
  - (a) be made in the approved form; and
  - (b) be received by the closing day for the submission in the notice under section 327C(2)(b)(iv); and
  - (c) be lodged at the place or in the way stated in the notice under section 327C(2)(b)(v).
- ‘(3) The Minister must consider all submissions received under this section before the lease is surrendered.

**‘327E Registration surrenders lease**

- ‘(1) All or part of a lease may be surrendered by registering a surrender notice or plan of subdivision.
- ‘(2) However, if the surrender relates to only part of a lot, the surrender may only be made by registering a plan of subdivision.
- ‘(3) The surrender of all or part of a lease takes effect on the day the surrender notice or plan of subdivision is registered.

**‘327F Notice of surrender**

- ‘(1) Written notice of the surrender of a lease must be given to each person given notice under section 327C(1) about the proposed surrender.
- ‘(2) The notice under subsection (1) must include all of the following—
  - (a) the date of the surrender;
  - (b) the effect, under section 327G, of the surrender;
  - (c) if there are improvements on the lease land owned by the person receiving the notice—a statement that the person may apply to remove the improvements.

- ‘(3) If the surrender of a lease is not registered, written notice of the fact must be given to each person given notice under section 327C(1) about the proposed surrender.

### **‘327G Effect of surrender**

‘On the surrender of all or part of a lease, the land the subject of the surrender—

- (a) if the lease was a State lease—remains a reserve; or
- (b) otherwise—becomes unallocated State land.

### **‘327H Person to give up possession on surrender**

- ‘(1) On the surrender of all or part of a lease, a person occupying the land the subject of the surrender must immediately vacate the land.
- ‘(2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying unallocated State land.

*Note—*

Action for trespassing may be taken under chapter 7, part 2.

### **‘327I Dealing with improvements**

- ‘(1) An owner of improvements on a lease that has been surrendered may apply to remove the owner’s improvements on the lease.
- ‘(2) The owner may remove the improvements only with the written approval of, and within a time stated by, the Minister.
- ‘(3) The improvements become the property of the State if—
- (a) the Minister has not given written approval for their removal; or
  - (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.

- ‘(4) However, if the lease the subject of surrender is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.
- ‘(5) In this section—  
*owner*, of improvements, means—
- (a) if the lessee owned the improvements—the lessee; or
  - (b) a person who—
    - (i) made the improvements on the land the subject of the surrender with the lessee’s authority; and
    - (ii) owned the improvements.’.

#### **159 Amendment of s 328 (Surrender of subleases)**

- (1) Sections 328(1), (2), (3) and (4)—  
*renumber* as section sections 328 (2), (3), (5) and (6).
  - (2) Section 328—  
*insert*—
- ‘(1) A registered sublease may be wholly or partly surrendered by operation of law or by registering an instrument of surrender of the sublease executed by the sublessor and the sublessee.
- ‘(4) If an instrument of surrender of lease is lodged, the chief executive may register the instrument and record the date of surrender stated in the instrument in the leasehold land register.’.

#### **160 Amendment of s 329 (Notice of surrender needed)**

- Section 329(1), ‘section 327(1)(a)’—  
*omit, insert*—  
 ‘section 327A’.

#### **161 Amendment of s 330 (Requirements for effective surrender)**

- Section 330(c)—

*omit, insert—*

- ‘(c) any grantee of an easement or profit a prendre whose interest will be adversely affected by the surrender gives written approval to the surrender.’.

**162 Amendment of s 332 (Subleases require Minister’s approval)**

- (1) Section 332(3)(b), after ‘appropriate’—

*insert—*

‘, including, for example, that a stated mandatory standard terms document form part of the sublease’.

- (2) Section 332—

*insert—*

- ‘(8) Without limiting subsection (3)(a), the Minister may refuse to approve a sublease of a lease if the Minister is satisfied that the subleasing would be inappropriate, having regard to the purpose and conditions of the lease.’.

**163 Replacement of s 333 (General authority to sublease)**

Section 333—

*omit, insert—*

**‘333 General authority to lessee for particular dealings**

- ‘(1) If the Minister considers it appropriate, the Minister may issue to the lessee of a lease issued under this Act an authority to agree to and as appropriate give effect to 1 or more of the following without seeking the Minister’s approval—
- (a) subleasing of the lease;
  - (b) transferring a sublease of the lease;
  - (c) amending a sublease of the lease;
  - (d) creating an easement that burdens or benefits a sublease of the lease;
  - (e) transferring a public utility easement that burdens a sublease of the lease;

- (f) amending an easement that burdens or benefits a sublease of the lease.
- ‘(2) The authority applies only to the lease identified, and to the lessee named, in the authority.
- ‘(3) In acting under the authority, the lessee must comply with any requirements prescribed under a regulation for this section.
- ‘(4) The authority may include the conditions the Minister considers appropriate, and may be withdrawn at any time.
- ‘(5) The authority is cancelled immediately either of the following dealings are registered in the leasehold land register—
- (a) the transfer of the lease;
  - (b) a transmission of the lessee’s interest in the lease under a law about bankruptcy.
- ‘(6) For subsection (1)(d), (e) or (f), a reference to a sublease of a lease must not be taken to include a reference to a sub-sublease of a sublease of a lease.’.

**164 Amendment of s 334 (When subleasing is totally prohibited)**

Section 334, after ‘a lease’—

*insert—*

‘issued under this Act’.

**165 Amendment of s 334A (Application to sub-subleases)**

Section 334A, from ‘For applying—

*omit, insert—*

‘In sections 332 to 334, for applying schedule 6, definition *sublease*, a reference to a lease issued under this Act may be taken to be a reference to a sublease of a lease issued under this Act, and correspondingly, a reference to a lessee may be taken to be a reference to a sublessee of a lease issued under this Act.’.

**166 Insertion of new ch 6, pt 4, div 3A**

Chapter 6, part 4, after section 339—

*insert—*

**‘Division 3A                    Mediation for disputes about terms  
of particular subleases****‘339A Application of div 3A**

‘This division applies 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 its terms; and
- (b) the dispute can not be dealt with under a dispute resolution process, under another Act, that specifically provides for dealing with disputes of that type; and

*Examples of another Act—*

- *Residential Tenancies Act 1994*
- *Retail Shop Leases Act 1994*

- (c) the sublease does not include a dispute resolution process that is capable of being used to resolve the dispute.

**‘339B Mediation**

- ‘(1) A party to the sublease may ask the chief executive to refer the dispute to mediation.
- ‘(2) After consulting with the persons the chief executive reasonably considers are a party to the dispute, and having regard to the nature of the dispute, the chief executive may refer it to mediation.
- ‘(3) If the chief executive refers the dispute to mediation—
  - (a) the mediation must be conducted by—
    - (i) a person agreed to by the parties to the dispute; or

- (ii) if the parties can not agree—an appropriately qualified mediator appointed by the chief executive; and
- (b) the mediation must be conducted in the way decided by the mediator and the parties; and
- (c) the parties must participate in the mediation in good faith to attempt to resolve the dispute; and

*Examples of participating in the mediation in good faith—*

- attending meetings that the parties have agreed to attend
  - complying with mediation procedures agreed to by the mediator and the parties
  - disclosing relevant information as appropriate for the mediation
  - ensuring a party's agent at a mediation is authorised to reach agreement for the party
- (d) the parties must pay the mediator the costs of the mediation in the proportions agreed by the mediator and the parties.
- ‘(4) For subsection (3), a party to the dispute may be represented by an agent appointed by the party if the mediator is satisfied the appointment will facilitate the conduct of the mediation.
- ‘(5) If a lessee who is a party to the dispute, in relation to a sublease of the lessee's lease, contravenes subsection (3)(c), the lessee is taken to have contravened a provision of this Act in relation to the lease.
- ‘(6) Nothing in this section affects any rights or remedies to which a party to the dispute may be entitled.
- ‘(7) Evidence of anything done or said, or an admission made, at a mediation about the dispute is admissible at the trial of the dispute or in another civil proceeding only if all parties who participated in the mediation agree.
- ‘(8) 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.
- ‘(9) In this section—

*appropriately qualified*, for a mediator, means having the qualifications or experience appropriate to conduct the mediation.

*civil proceeding* does not include a proceeding under this Act about a lessee's contravention of this Act under subsection (5).'

**167 Amendment of s 346 (Sale of mortgaged lease)**

- (1) Section 346(2), from ‘, in’ to ‘lease,’

*omit, insert—*

‘in a newspaper circulating generally in the locality of the lease’.

- (2) Section 346(4)(b), after ‘lease’—

*insert—*

‘and any land management agreement for the lease’.

- (3) Section 346(4)(d), after ‘lease’—

*insert—*

‘including any land management agreement’.

**168 Omission of ch 6, pt 4, divs 5 and 6**

Chapter 6, part 4, divisions 5 and 6—

*omit.*

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

- (1) Section 358(1)(b), after ‘sale’—

*insert—*

‘or disposal’.

- (2) Section 358(1)(e), ‘chapter 3, part 2, divisions 4 and 5’—

*omit, insert—*

‘section 109(2)(b), 109A or 109B’.

**170 Insertion of new s 358C**

After section 358B—

*insert—*

**‘358C Correction of minor error in deed of grant**

‘(1) This section applies if—

- (a) a deed of grant is incorrect because of an error in issuing it; and
- (b) the registrar of titles certifies that the correction of the deed of grant will not prejudice any person who holds an interest in the deed of grant.

*Example—*

The registrar of titles would be likely to certify that a correction will not prejudice any person if the deed of grant has been issued with its lot and plan correctly described, but with its parish name incorrect.

‘(2) The registrar of titles must record the correction in the freehold land register.

‘(3) The corrected deed of grant operates as if it had originally been issued that way.

‘(4) In this section—

*deed of grant* includes a deed of grant in trust.’.

**171 Amendment of s 359 (Correcting or cancelling deeds of grant)**

(1) Section 359(7)—

*renumber* as section 359(8).

(2) Section 359—

*insert—*

‘(7) This section does not apply to the correction of a deed of grant if the correction has been made under section 358C.’.

**172 Amendment of s 360 (Governor in Council may change leases)**

(1) Section 360, heading, before ‘leases’

*insert—*

**‘freeholding’.**

- (2) Section 360(1), ‘in a lease’

*omit, insert—*

‘in a freeholding lease’.

- (3) Section 360(1), after ‘may’—

*insert—*

‘, by gazette notice.’

- (4) Section 360(1)(a)—

*omit, insert—*

‘(a) on resurvey of the lease land, the boundaries of the land do not agree with the boundaries described in the lease or appropriate plan, and no doubt exists about the boundaries of the land; or’.

- (5) Section 360(1)(c) and (d)—

*omit, insert*

‘(c) the boundaries of the lease land have significantly changed because of erosion or by gradual and imperceptible degrees; or’.

- (6) Section 360(1)(e), (f) and (g)—

*renumber* as section 360(1)(d), (e) and (f).

- (7) Section 360(1)(e) as renumbered, ‘or trust land’—

*omit.*

- (8) Section 360(2), from ‘record’—

*omit, insert—*

‘register the amendment.’.

- (9) Section 360(3), ‘lease’—

*omit, insert—*

‘freeholding lease’.

**173 Insertion of new ss 360A–360F**

Chapter 6, part 4, division 7—

*insert—*

**‘360A Minister may change term leases, other than State leases, or perpetual leases**

- ‘(1) This section applies to a term lease, other than a State lease, or a perpetual lease.
- ‘(2) The Minister may, by approving a plan subdivision, amend the description or anything else in the lease if—
  - (a) the boundaries of the lease land are not stated in the lease with adequate certainty or do not agree with the boundaries shown on the relevant plan; or
  - (b) a survey of the land gives more accurate knowledge of the lease; or
  - (c) if the Minister has approved of a mutual exchange of areas adjoining a common boundary between leases and—
    - (i) none of the areas adjoining the common boundary are subject to a freeholding lease; and
    - (ii) the lessees of the adjoining leases have agreed to the mutual exchange; or
  - (d) the Minister has approved that an area of unallocated State land be included in the lease; or
  - (e) the Minister has approved that a reservation no longer needed be absorbed by the lease.
- ‘(3) The Minister may, by adjustment notice, amend the description or anything else in the lease if—
  - (a) the lease is defective because of an error or omission in its preparation; or
  - (b) the court has made a decision under section 435 on a dispute about the boundaries; or
  - (c) the Minister considers it necessary for another reason to correct the lease.
- ‘(4) The chief executive must register the amendment.

- ‘(5) An amended lease operates as if it had been originally issued or executed as amended.

### **‘360B Minister may change State lease**

- ‘(1) The Minister may, by registering an adjustment notice, amend the description or anything else in a State lease if—
- (a) the boundaries of the lease land are not stated in the lease with adequate certainty or do not agree with the boundaries shown on the relevant plan; or
  - (b) a survey of the land gives more accurate knowledge of the lease; or
  - (c) the Minister has approved of a mutual exchange of areas adjoining a common boundary between State leases that are within the boundaries of 1 reserve, and the lessees of the leases agree to the exchange; or
  - (d) the Minister has approved that an area of trust land be included in the lease; or
  - (e) the State lease is defective because of an error or omission in its preparation; or
  - (f) the Minister considers it necessary for another reason to correct the State lease.
- ‘(2) The chief executive must register the amendment.
- ‘(3) An amended State lease operates as if it had been originally issued or executed as amended.

### **‘360C Applying to amend description of lease**

- ‘(1) A lessee or a person acting for the lessee may apply to amend the description in a freeholding lease if the description of the lease may be amended under section 360(1)(a), (c) or (d).
- ‘(2) A lessee or a person acting for the lessee may apply to amend the description in a term lease, other than a State lease, or a perpetual lease if the description of the lease may be amended under section 360A(2)(a), (b) or (c).

- ‘(3) A lessee or a person acting for the lessee may apply to amend the description in a State lease if the description of the lease may be amended under section 360B(1)(a), (b), (c) or (d).

### **‘360D Notice of proposal to amend lease**

- ‘(1) If the Governor in Council proposes to approve an amendment of freeholding lease under section 360, written notice must be given of the proposal to the following—
- (a) the lessee of the lease;
  - (b) each person who made an application under section 360C(1);
  - (c) each person with a registered interest in the lease land;
  - (d) another person the Minister considers should be given the notice.
- ‘(2) If the Minister proposes to approve an amendment of a term lease, other than a State lease, or a perpetual under section 360A, written notice of the proposal must be given to the following—
- (a) the lessee of the lease;
  - (b) each person who made an application under section 360C(2);
  - (c) each person with a registered interest in the lease land;
  - (d) another person the Minister considers should be given the notice.
- ‘(3) If the Minister proposes to approve an amendment of a State lease under section 360B, written notice of the proposal must be given to the following—
- (a) the lessee of the lease;
  - (b) the trustee of the reserve over which the State lease is granted;
  - (c) each person who made an application under section 360C(3);
  - (d) each person with a registered interest in the lease land;

- (e) another person the Minister considers should be given the notice.
- ‘(4) The notice must—
- (a) be in the approved form; and
  - (b) state the following—
    - (i) the reason for the proposal;
    - (ii) that the person given the notice may make a submission against the proposal to the Governor in Council;
    - (iii) that the submission must be made in the approved form;
    - (iv) the closing day for the submission;
    - (v) the place where or the way the submission must be lodged.

### **‘360E Submissions**

- ‘(1) A person given notice of a proposal under section 360D, other than the lessee of the lease, may make a submission against the proposal to the designated person.
- ‘(2) The submission must—
- (a) be made in the approved form; and
  - (b) be received by the closing day for the submission in the notice under section 360D(4)(b)(iv); and
  - (c) be lodged at the place or in the way stated in the notice under section 360D(4)(b)(v).
- ‘(3) The designated person must consider all submissions received under this section before approving the amendment of the lease.

### **‘360F Notice of registration of amendment of lease**

- ‘(1) If an amendment of a lease is registered under section 360(2), 360A(4) or 360B(2), written notice must be given to each person given notice under section 360D about the proposed amendment.

- ‘(2) The notice must include both of the following—
- (a) the date of registration of the amendment;
  - (b) the particulars of the amendment.
- ‘(3) If the designated person does not approve of an amendment to the description of a lease, written notice of the fact must be given to each person given notice under section 360D about the proposed amendment.’.

#### **174 Amendment of s 361 (Definitions)**

- (1) Section 361, heading, after ‘Definitions’—  
*insert—*  
**‘for div 8’.**
- (2) Section 361, definition *public utility provider*—  
*omit.*

#### **175 Amendment of s 372 (End and continuation of easements)**

- Section 372(1) and (2), before ‘the reserve’—  
*insert—*  
‘the dedication of’.

#### **176 Insertion of new s 373AA**

- Chapter 6, part 4, division 8, after section 373—  
*insert—*

##### **‘373AA Particular matters about easements and permit land**

- ‘(1) An easement may be created over permit land without the permittee’s consent.
- ‘(2) If permit land is subject to an easement, the rights of the grantee under the easement prevail, to the extent of any inconsistency, over the occupation rights comprising the permit.’.

**177 Amendment of s 383 (Power of attorney)**

Section 383—

*insert—*

- ‘(3) However, an individual who is a trustee of trust land can not, under a power of attorney, authorise a person to deal with an interest in the trust land that may be dealt with by the individual as trustee.

*Example—*

An individual who is the trustee of a reserve could not, under a power of attorney, authorise another person to act on the trustee’s behalf to enter into a trustee lease with a third person.’.

**178 Insertion of new s 389B**

After section 389A—

*insert—*

**‘389B Effect on writ of execution of transfer after sale by chief executive**

- ‘(1) This section applies if—
- (a) a writ of execution has been registered in relation to a lease; and
  - (b) the chief executive has sold the lease under chapter 5, part 4, division 3A, subdivision 4.
- ‘(2) If the chief executive executes a transfer of the lease for the purposes of the sale—
- (a) the registration of the writ of execution does not prevent registration of the transfer; and
  - (b) on registration of the transfer, the chief executive must cancel registration of the writ of execution.’.

**179 Insertion of new ch 6, pt 4, div 11A**

Chapter 6, part 4—

*insert—*

**‘Division 11A Caveats**

## **‘Subdivision 1      Caveats generally**

### **‘389C Requirements of caveats**

- ‘(1) A caveat in relation to a lease or licence must be signed by or for the caveator.
- ‘(2) The caveat must state—
  - (a) the name of the caveator; and
  - (b) an address where documents can be served on the caveator; and
  - (c) unless the chief executive dispenses with it, the name and address of—
    - (i) the lessee or licensee affected by the caveat; and
    - (ii) anyone else having the right to deal with the lease or licence affected by the caveat; and
  - (d) the registered interest affected by the caveat; and
  - (e) the interest claimed by the caveator; and
  - (f) the grounds on which the interest is claimed.
- ‘(3) This section applies to caveats under this division other than a caveat prepared and registered by the chief executive under section 389L(1).

### **‘389D Lodging caveat**

- ‘(1) A caveat may be lodged by the following—
  - (a) the chief executive under section 389L(1);
  - (b) a person to whom an Australian court has ordered that an interest in a lease or licence be transferred;
  - (c) a person who has the benefit of a subsisting order of an Australian court in restraining a lessee from dealing with a lease or licensee from dealing with a licence.
- ‘(2) An office copy of a court order mentioned in subsection (1) must be deposited when a caveat is lodged under subsection (1).

**‘389E Notifying caveat**

‘The chief executive must give written notice of lodgement of a caveat under this division to each person whose interest or whose right to registration of a document is affected by the caveat.

**‘389F Effect of lodging caveat**

- ‘(1) A caveat lodged under this division prevents registration of a document affecting the tenure over which the caveat is lodged from the date and time endorsed by the chief executive on the caveat as the caveat’s date and time of lodgement.
- ‘(2) Subsection (1) has effect for a caveat until the caveat is cancelled, rejected, removed or withdrawn.
- ‘(3) However, lodgment of a caveat under this subdivision does not prevent registration of the following—
  - (a) a document stated in the caveat as a document to which the caveat does not apply;
  - (b) a document if the caveator consents to its registration;
  - (c) a document executed by a mortgagee whose interest was registered before lodgement of the caveat if—
    - (i) the mortgagee has power under the mortgage to execute the document; and
    - (ii) the caveator claims an interest in the lease as security for the payment of money or money’s worth;
  - (d) a document of transfer of mortgage executed by a mortgagee whose interest was registered before lodgement of the caveat;
  - (e) another interest that, if registered, will not affect the interest claimed by the caveator.
- ‘(4) Also, lodgement of a caveat under section 389L(1) does not prevent registration of the following—
  - (a) a document stated in the caveat as a document to which the caveat does not apply;

- (b) a document if the chief executive consents to its registration.
- ‘(5) Lodgment of a caveat does not create in the caveator an interest in the tenure affected by the caveat.

### **‘389G Withdrawing caveat**

‘A caveator may withdraw a caveat lodged under this division by lodging a request to withdraw it.

### **‘389H Removing caveat**

- ‘(1) A caveatee may at any time apply to the Supreme Court for an order that a caveat lodged under this division be removed.
- ‘(2) The Supreme Court may make the order whether or not the caveator has been served with the application, and may make the order on the terms it considers appropriate.

### **‘389I Cancelling caveat**

- ‘(1) This section does not apply to a chief executive’s caveat prepared and registered under section 389L(1).
- ‘(2) The chief executive may cancel a caveat if a request to cancel the caveat is lodged and the chief executive is satisfied that—
  - (a) the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn; or
  - (b) the claim of the caveator has been settled by agreement or otherwise satisfied; or
  - (c) the nature of the interest claimed does not entitle the caveator to prevent registration of a document that has been lodged.
- ‘(3) The chief executive must notify the caveator of the chief executive’s intention to cancel the caveat at least 7 days before cancelling it.
- ‘(4) If a document that has been lodged will, on registration, give full effect to an interest claimed in a caveat, the chief executive may remove the caveat immediately before registering the document.

**‘389J Further caveat**

- ‘(1) This section applies if a caveat is lodged under this division (the *original caveat*) in relation to an interest.
- ‘(2) A further caveat with the same caveator can never be lodged in relation to the interest on the same, or substantially the same, grounds as the grounds stated in the original caveat unless the leave of a court of competent jurisdiction to lodge the further caveat has been granted.

**‘389K Notices to the caveator**

- ‘(1) A notice to a caveator under this subdivision is sufficiently served if left at or sent to the address mentioned in section 389C(2)(b).
- ‘(2) If the chief executive is satisfied that a notice under this subdivision will not reach the caveator if served in the way mentioned in subsection (1), the notice may be served in a way stated in a written direction by the chief executive.
- ‘(3) If the chief executive is informed in writing, and is satisfied, that the name or address of the caveator has changed, the chief executive must note on the caveat details of the new name or address.
- ‘(4) A new name or address noted under subsection (3) becomes the name or address for service of a notice on the caveator.

**‘Subdivision 2 Chief executive’s caveat****‘389L Chief executive may prepare and register caveat**

- ‘(1) The chief executive may prepare and register a caveat over a relevant tenure in favour of the State.
- ‘(2) The chief executive may act under subsection (1) to prevent a dealing with a relevant tenure that may prejudice—
  - (a) the Commonwealth, a State or a relevant local government; or
  - (b) a person who is intellectually or mentally impaired or is incapable of managing the person’s own affairs; or

- (c) a person who is absent from the State; or
  - (d) a person because of—
    - (i) misdescription of the tenure; or
    - (ii) fraud or forgery; or
  - (e) a person to whom a notice has been given, or has been required to be given, under section 295(2); or
  - (f) a person, other than a person mentioned in any of paragraphs (a) to (e), who has an interest in the relevant tenure.
- ‘(3) Also, the chief executive may act under subsection (1) to prevent a dealing with a relevant tenure—
- (a) if the relevant tenure is to be extinguished; or
  - (b) to give effect to an order of a court of competent jurisdiction directed to the chief executive.
- ‘(4) Subsection (2)(f) applies only if the chief executive is satisfied, because of the nature or urgency of particular circumstances, there is no practicable alternative to registering the caveat.
- ‘(5) In this section—
- dealing**, with a relevant tenure, does not include registering a document to extinguish a relevant tenure.
- extinguish** means extinguish for the purposes of—
- (a) for a freeholding lease—an amalgamation, forfeiture, resumption, subdivision or surrender of, or the registration of a deed of grant over, the lease land; or
  - (b) for a lease other than a freeholding lease—an amalgamation, conversion, forfeiture, renewal, resumption, subdivision or surrender of the lease; or
  - (c) for a licence—a cancellation or surrender of the licence; or
  - (d) for an operational reserve—the registration of a deed of grant over the operational reserve; or
  - (e) for a reserve other than an operational reserve—the revocation of the dedication of the reserve.’

**180 Amendment of s 390A (Special provision for transport land)**

- (1) Section 390A, heading, after ‘transport’—

*insert—*

‘**related**’.

- (2) Section 390A(2), after ‘transport land,’—

*insert—*

‘or is lease land under a perpetual lease to the State for marine facility purposes.’.

**181 Insertion of new s 390B**

Chapter 6, division 13, after section 390A—

*insert—*

**‘390B Particular dealing with rail land**

- ‘(1) This section applies if the chief executive of the department under which the *Transport Infrastructure Act 1994* is administered applies for the issue of a deed of grant for a part of rail land.
- ‘(2) If the Governor in Council issues the deed of grant for the part of the rail land—
- (a) the deed of grant takes effect on the day it is registered; and
  - (b) the lot the subject of the deed of grant stops being lease land under the perpetual lease for the rail land when the deed of grant is registered; and
  - (c) the chief executive must amend the leasehold land register to show the particulars of the perpetual lease after the deed of grant is issued.
- ‘(3) The deed of grant is subject to the registered interests affecting the lot before its issue.’.

**182 Insertion of new s 391A**

After section 391—

*insert—*

### **‘391A General provision about approvals**

- ‘(1) It this Act permits or requires the Minister or chief executive to give approval for a matter or thing, the approval may be given subject to the conditions the Minister or chief executive considers appropriate.
- ‘(2) If a document requires the Minister’s approval to be registered, the Minister may tell the person seeking to register it that the approval will be given subject to conditions the Minister considers appropriate for the document.
- ‘(3) An advice under subsection (2) may be considered to be an ‘in principle’ approval.
- ‘(4) When the conditions are complied with, the Minister may give the approval by executing the appropriate form.’.

### **183 Amendment of s 392 (Delegation by Minister)**

- (1) Section 392(2A)—

*omit, insert—*

- ‘(2A) The Minister may, for a lease held by the State to perform functions under another Act, delegate the Minister’s functions under this Act to the chief executive or an officer of the public service of the department in which the other Act is administered.’.

- (2) Section 392(4) and (5)—

*omit, insert—*

- ‘(4) However, the following functions of the Minister can not be delegated—
  - (a) granting a lease;
  - (b) dispensing with the need to obtain the Minister’s approval for trustee leases;
  - (c) extending the term of a lease for a year if the term has already been extended;
  - (d) extending the term of a lease, under section 155A or 155B;

- (e) reducing the term of a lease, under section 155D or 214E;
  - (f) imposing an additional condition, under section 214E.
- ‘(5) In this section—  
*functions* includes powers.’.

#### **184 Amendment of s 393 (Delegation by chief executive)**

Section 393—

*insert—*

- ‘(4A) However, the chief executive must not delegate the chief executive’s power to appoint a person as a mediator under section 339B(3)(a)(ii).’.

#### **185 Replacement of s 394 (Committee of review)**

Section 394—

*omit, insert—*

#### **‘394 Committees**

- ‘(1) The Minister must establish a committee (the *advisory committee*) to advise the Minister about the management and use of rural leasehold land.
- ‘(2) The Minister may—
- (a) establish—
    - (i) a committee of review to help the Minister with the administration of this Act; and
    - (ii) regional committees to support the advisory committee; and
  - (b) decide the functions or terms of reference of a committee established under paragraph (a); and
  - (c) decide the following for any committee established under this section—
    - (i) its membership;
    - (ii) how it is to operate.

- ‘(3) A member of a committee established under this section is entitled to be paid the fees and allowances decided by the Governor in Council.

**‘394A Ministerial guidelines about what constitutes a good condition for lease land**

- ‘(1) The Minister may make guidelines about what constitutes a good condition for lease land.
- ‘(2) Before making proposed guidelines, the Minister must seek advice from the advisory committee under section 394 about the appropriateness of the guidelines.
- ‘(3) If the advice sought is not given within a reasonable period, the Minister may make the guidelines without receiving the advice.
- ‘(4) The Minister must make the guidelines available to the public in the way the Minister considers appropriate.
- ‘(5) Without limiting subsection (4), the Minister must ensure an up-to-date copy of the guidelines is available to be read free of charge at each office of the department.
- ‘(6) If, under this Act, the Minister may consider or must be satisfied that lease land for a particular lease is in good condition, the Minister may have regard to the guidelines.’.

**186 Amendment of s 400 (Power to enter land, generally)**

Section 400(1)(e)—

*omit, insert—*

- ‘(e) for lease land, licence land or permit land for agricultural, grazing or pastoral purposes, establish on the lease land, licence land or permit land sites (each a ***monitoring site***) to monitor compliance with—
- (i) this Act; or
  - (ii) the lease, licence or permit; or
  - (iii) a land management agreement; or
  - (iv) a remedial action notice; or

- (v) a remedial action order;
- (f) place a marker to show where a monitoring site is;
- (g) install or place at a monitoring site a device (a *monitoring device*) to carry out the monitoring;
- (h) read a monitoring device;
- (i) check the accuracy of, or repair or replace, a monitoring device;
- (j) do anything reasonable and necessary to exercise a power under any of paragraphs (a) to (i).’.

### **187 Amendment of s 404 (No trespassing)**

Section 404—

*insert—*

- ‘(1A) To remove any doubt, it is declared that the mere making of an offer under this Act in relation to non-freehold or trust land does not make it lawful for the offeree to do a trespass related act in relation to the land.’.

### **188 Insertion of new ss 405A and 405B**

After section 405—

*insert—*

#### **‘405A Exercise of chief executive’s powers under division**

- ‘(1) This section applies in relation to the chief executive’s powers under this division for land to which this division applies.
- ‘(2) The chief executive’s powers are in addition to, and do not limit or otherwise affect, the corresponding powers of any trustee of, or the relevant local government for, the land.
- ‘(3) The chief executive may decide not to exercise the chief executive’s powers if the chief executive considers it is more appropriate for the trustee or local government to exercise the corresponding powers.
- ‘(4) Subsection (3) is subject to subsection 405B(2).
- ‘(5) In this section—

*corresponding powers*, of a trustee or local government, means the trustee's or local government's powers under an Act about the unlawful occupation of the land.

**'405B Occupation fee for unlawful occupation by offeree until grant of tenure**

- '(1) This section applies if—
- (a) the chief executive is satisfied a person is or has been unlawfully occupying land; and
  - (b) the person has, under this Act, been made an offer of a tenure in relation to the land; and
  - (c) the person has accepted the offer, whether or not the tenure has been granted.
- '(2) The chief executive may, for the State, by written notice to the person, charge the person a fee for the person's occupation of the land for the period from when the chief executive is reasonably satisfied the person started to unlawfully occupy the land to when the tenure starts.
- '(3) A notice may be for all or a stated part of the period.
- '(4) The fee must be reasonable.
- '(5) The fee is taken to be reasonable if it represents an amount that would have been payable by the person to the State had the person held the tenure, or a tenure of that type for the land, during the period.
- '(6) The amount of the fee is a debt owing by the person to the State.'

**189 Amendment of s 406 (Notice to person to leave land, remove structures etc.)**

- (1) Section 406—  
*insert—*
- '(1A) However, the chief executive must give the person a trespass notice if—
- (b) the person has, under this Act, been made an offer of a tenure in relation to the land; and

- (c) the person has rejected the offer or the offer has lapsed.’.
- (2) Section 406(4), ‘28 days’—  
*omit, insert—*  
‘the number of days prescribed under a regulation’.

## **190 Insertion of new ch 7, pt 2A**

Chapter 7—

*insert—*

### **‘Part 2A                      General provisions for applications**

#### **‘420A Application of pt 2A**

- ‘(1) This part applies for the making and deciding of applications under this Act.
- ‘(2) This part does not limit or otherwise affect a requirement under another provision of this Act about the making or deciding of a particular application.

#### **‘420B Application guidelines**

- ‘(1) The chief executive may keep guidelines (by whatever name called) about the making of applications, in the way the chief executive considers appropriate, for the information and guidance of departmental staff and persons dealing with the department.
- ‘(2) The guidelines may include directions by the chief executive about all or any of the following—
- (a) practices developed in the department about the making of applications;
  - (b) how application forms must be filled in;
  - (c) how information required to be included in or given with applications must be included or given.
- ‘(3) The chief executive must make the guidelines available to the public in the way the chief executive considers appropriate.

- ‘(4) Without limiting subsection (3), the chief executive must ensure an up-to-date copy of the guidelines is available to be read free of charge at each office of the department.

#### **‘420C Requirements for making an application**

- ‘(1) An application is made only if it complies with the following (the *application requirements*) and any particular requirements under this Act for making it—
- (a) it must be made to the chief executive;
  - (b) it must be in the appropriate form;
  - (c) it must comply with all relevant guideline directions;
  - (d) it must be accompanied by the fee prescribed under a regulation.
- ‘(2) Subsection (1)(a) applies even if the chief executive is not the person who may or must decide the application.
- ‘(3) The chief executive must refuse to receive or process a purported application not made in accordance with the application requirements.
- ‘(4) However, subsection (3) does not apply if—
- (a) the only noncompliance with the application requirements is a noncompliance with a guideline direction; and
  - (b) the chief executive considers that it is not reasonable in the circumstances to require compliance with the direction.
- ‘(5) A lawyer acting for a person who wishes to make an application may sign and make the application for the person.
- ‘(6) In this section—
- guideline direction* means a direction given under section 420B(2).

#### **‘420D Refusal of frivolous or vexatious applications**

- ‘(1) An application may be refused on the ground that it is frivolous or vexatious.

- ‘(2) Subsection (1) does not limit any other ground for refusing the application.

#### **‘420E Request to applicant about application**

- ‘(1) The chief executive may, by written notice, ask an applicant to—
- (a) complete or correct the application if it appears to the chief executive to be incorrect, incomplete or defective; or
  - (b) give the chief executive—
    - (i) stated information, in support of the application; or
    - (ii) a statutory declaration verifying any information included in the application or any additional information required under subparagraph (i).
- ‘(2) The request may state the period within which it must be complied with.
- ‘(3) If no period is stated, it is 30 days after the making of the request.
- ‘(4) The chief executive may extend the period for complying with the request.
- ‘(5) The person who may or must decide the application may refuse to decide it until the request is complied with.
- ‘(6) This section does not limit section 420C(3).
- ‘(7) In this section—  
*information* includes a document.

#### **‘420F Refusing application for failure to comply with request**

- ‘If—
- (a) a request under section 420E has been made; and
  - (b) the period under section 420E for complying with the request has ended; and

(c) the request has not been complied with to the satisfaction of the person who made it;

the person who may or must decide the application the subject of the request may refuse the application.

#### **‘420G Particular criteria generally not exhaustive**

‘(1) This section applies if another provision of this Act permits or requires a person who may or must decide an application to consider particular criteria in making the decision.

‘(2) To remove any doubt, it is declared that the person may, in making the decision, consider any other criteria the person considers relevant.

‘(3) However, subsection (2) does not apply if the provision otherwise provides.

‘(4) In this section—

*criteria* includes issues and matters.

#### **‘420H Particular grounds for refusal generally not exhaustive**

‘(1) This section applies if another provision of this Act provides for particular grounds on which a person may refuse an application.

*Example a provision of this Act for subsection (1)—*

section 420F

‘(2) To remove any doubt, unless the other provision otherwise provides, the person may refuse the application on another reasonable and relevant ground.

‘(3) In this section—

*refuse*, an application, includes to refuse the thing the subject of the application.

#### **‘420I General power to impose conditions**

‘A power to decide an application includes a power to—

- (a) grant the application subject to conditions that must be complied with before the application is granted; or
- (b) approve or grant the thing the subject of the application subject to conditions that must be complied with before the thing is approved or granted.

*Example for paragraph (b)—*

An application is made under section 322 for approval of a transfer of a lease. The Minister may approve the transfer subject to a condition that all outstanding rent relating to the lease must be paid.’.

## 191 Insertion of new s 441A

After section 441—

*insert—*

### ‘441A Requirement for making conditional offers

- ‘(1) This section applies if an offer is proposed to be made under this Act and the offer is subject to conditions.
- ‘(2) The offer must state—
  - (a) that, for it to be accepted, the conditions must be complied with before the offer period ends; and
  - (b) that it lapses if the conditions are not complied with within the offer period.
- ‘(3) In this section—
 

*offer period* means the length of time stated in the offer, or if does not state a length of time, the 3 months provided for under section 442(1).’.

## 192 Amendment of s 442 (Lapse of offer)

Section 442(4)—

*omit, insert—*

- ‘(4) The person to whom the offer was made (the *offeree*) may, before the offer lapses, apply to the person who made the offer (the *offeror*) to extend the time stated in the offer or that otherwise applies under subsection (1).
- ‘(5) Subsections (6) to (9) apply if the time has passed.

- ‘(6) The offeree may apply to the offeror to extend the time.
- ‘(7) However, the application may be made only within 42 days after the time has passed.
- ‘(8) The offeror may extend the time only if the offeror considers that exceptional circumstances exist.
- ‘(9) If the offer included a purchase price or cash premium not fixed by a particular date, the offeror may, in extending the time, amend the offer by changing the price or premium.
- ‘(10) If the time is extended under subsection (4) or (8) the time stated in the offer is, for subsection (3), taken to be, and to have always been, the extended time.’.

**193 Amendment of s 468 (Existing leases continue)**

Section 468—

*insert—*

- ‘(2) To remove any doubt, it is declared that the perpetual lease may be used for either or both of the purposes.’.

**194 Amendment of ch 8, pt 5, div 1, hdg (Occupation licences and permits)**

Chapter 8, part 5, division 1, heading, ‘and permits’—

*omit.*

**195 Replacement of s 481 (Cancellation or surrender of occupation licence)**

Section 481—

*omit, insert—*

**‘481 Cancellation**

‘The Minister may cancel all or part of an occupation licence. if—

- (a) the licensee defaults in the payment of an amount payable to the State under this Act for the occupation licence;<sup>7</sup> or
- (b) the licensee breaches a condition of the occupation licence; or
- (c) the licensee contravenes a provision of this Act in relation to the occupation licence; or
- (d) the licensee acquired the occupation licence by fraud; or
- (e) the licensee has more than 1 conviction, not including any spent convictions, for a vegetation clearing offence, regardless of whether any of the offences were committed on the land the subject of the occupation licence; or
- (f) the Minister considers the cancellation of the licence is in the interests of the State.

**‘481A Absolute surrender**

‘A licensee may surrender, absolutely, all or part of an occupation licence—

- (a) on terms agreed to between the Minister and the licensee; and
- (b) with the Minister’s written approval.

**‘481B Application to cancel or surrender**

- ‘(1) A public utility provider may apply to cancel all or part of an occupation licence.
- ‘(2) A licensee may apply to surrender, absolutely, all or part of an occupation licence.

---

7 The Minister may take action for non-payment. See section 196 (Designated officer may take action for non-payment).

**‘481C Notice of proposal to cancel or surrender**

- ‘(1) If the Minister proposes to cancel all or part of an occupation licence, written notice of the proposal must be given to the following—
- (a) the licensee of the occupation licence;
  - (b) a public utility provider who applied for the cancellation;
  - (c) each person with a registered interest in the occupation licence;
  - (d) if the occupation licence is a designated occupation licence—the chief executive of the department having responsibility for the administration of the forest reserve, national park, State forest or timber reserve the subject of the designated occupation licence;
  - (e) another person the chief executive considers should be given the notice.
- ‘(2) If the Minister proposes to approve the absolute surrender of all or part of an occupation licence, written notice must be given to the following—
- (a) the licensee of the occupation licence;
  - (b) each person with a registered interest in the occupation licence;
  - (c) if the occupation licence is a designated occupation licence—the chief executive of the department having responsibility for the administration of the forest reserve, national park, State forest or timber reserve the subject of the designated occupation licence;
  - (d) another person the chief executive considers should be given the notice.
- ‘(3) The notice must—
- (a) be in the approved form; and
  - (b) state the following—
    - (i) the reason for the proposed cancellation or surrender;

- (ii) that the person given the notice may make a submission against the proposed cancellation or surrender to the Minister;
- (iii) that the submission must be made in the approved form;
- (iv) the closing day for the submission;
- (v) the place where or the way the submission must be lodged.

#### **‘481D Submissions**

- ‘(1) A person given notice of a proposal under section 481C, other than the licensee or public utility provider who applied for the cancellation or surrender, may make a submission against the proposed cancellation or surrender to the Minister.
- ‘(2) The submission must—
  - (a) be made in the approved form; and
  - (b) be received by the closing day for the submission in the notice under section 481C(3)(b)(iv); and
  - (c) be lodged at the place or in the way stated in the notice under section 481C(3)(b)(v).
- ‘(3) The Minister must consider all submissions received under this section before cancelling or approving the surrender of the occupation licence.

#### **‘481E Registration cancels occupation licence**

- ‘(1) All or part of an occupation licence may be cancelled by registering a cancellation notice or plan of subdivision.
- ‘(2) However, if the cancellation relates to only part of a lot, the cancellation may only be made by registering a plan of subdivision.
- ‘(3) The cancellation of all or part of an occupation licence takes effect on the day a cancellation notice or plan of subdivision is registered.

**‘481F Registration surrenders occupation licence**

- ‘(1) All or part of an occupation licence may be surrendered, absolutely, by registering a surrender notice or plan of subdivision.
- ‘(2) However, if the surrender relates to only part of a lot, the surrender may only be made by registering a plan of subdivision.
- ‘(3) The surrender of all or part of an occupation licence takes effect on the day a surrender notice or plan of subdivision is registered.

**‘481G Notice of cancellation or absolute surrender**

- ‘(1) Written notice of a cancellation or absolute surrender of all or part of an occupation licence must be given to each person given notice under section 481C about the proposed cancellation or surrender.
- ‘(2) The notice must—
  - (a) be in the approved form; and
  - (b) state the following—
    - (i) the date of the cancellation or surrender;
    - (ii) the effect, under section 481H, of the cancellation or surrender;
    - (iii) if there are improvements on the land the subject of the occupation licence owned by the person receiving the notice—a statement that the person may apply to remove the improvements.
- ‘(3) If the cancellation or absolute surrender of an occupation licence is not registered, written notice of the fact must be given to each person given notice under section 481C about the proposed cancellation or surrender.

**‘481H Effect of cancellation or absolute surrender**

‘On the cancellation or absolute surrender of all or part of an occupation licence, all of the following apply in relation to the land the subject of the cancellation or surrender—

- (a) the occupation licence ends;
- (b) the licensee is divested of any interest in the occupation licence;
- (c) if the occupation licence is cancelled—no person has a right to compensation from the Minister or the State for the cancellation;
- (d) the land the subject of the occupation licence—
  - (i) if the land was subject to a designated occupation licence—remains a forest reserve, national park, State forest or timber reserve; or
  - (ii) otherwise—becomes unallocated State land.

**‘481I Person to give up possession on cancellation or absolute surrender**

- ‘(1) On the cancellation or absolute surrender of all or part of an occupation licence, a person occupying the land the subject of the cancellation or surrender must immediately vacate the land.
- ‘(2) A person who does not give up possession under subsection (1), and is not otherwise entitled to possession, is a person who is unlawfully occupying the land the subject of the cancellation or surrender.

**‘481J Improvements**

- ‘(1) A licensee of an occupation licence that is cancelled or surrendered absolutely, may apply to remove the licensee’s improvements on the licence.
- ‘(2) The licensee may remove the licensee’s improvements only with the written approval of, and within a time stated by, the Minister.
- ‘(3) The improvements are forfeited to the State if—
  - (a) the Minister has not given written approval for their removal; or

- (b) the Minister has given written approval for their removal but the improvements have not been removed within the time stated by the Minister.
- ‘(4) However, if the land the subject of the cancellation or absolute surrender is leased or sold, the owner has a right to payment for the improvements under chapter 5, part 5.’.

**196 Insertion of new ch 8, pt 5, div 1A, hdg**

After section 482—

*insert—*

**‘Division 1A Permits’.**

**197 Amendment of s 495 (Definitions)**

Section 495, heading, after ‘Definitions’—

*insert—*

**‘for div 2’.**

**198 Amendment of s 503B (Definitions)**

Section 503B, heading, after ‘Definitions’—

*insert—*

**‘for div 2A’.**

**199 Insertion of new ch 9, pt 1D**

After section 521D—

*insert—*

**‘Part 1D Transitional provisions for  
Land and Other Legislation  
Amendment Act 2007**

**‘521E Divesting and vesting trust land**

- ‘(1) This section applies if a trustee of trust land is a trustee—

- (a) mentioned in section 44(2)(c) or (e) as in force immediately before the commencement of this section; and
  - (b) represents the State.
- ‘(2) On the commencement of this section, the trust land is vested in the State.
- ‘(3) The chief executive must register the vesting.

#### **‘521F Existing leases exempted from particular amendments**

‘The following provisions inserted under the *Land and Other Legislation Amendment Act 2007* do not apply for a lease that started before the commencement of this section—

- section 115(3) to (5)
- section 136(5) to (7)
- sections 155A to 155E, 160A, 162A and 168A.

#### **‘521G Offer of additional area**

‘Section 136(5) to (7) does not apply to an offer of an additional area made under chapter 4, part 1, division 3 before the commencement of this section.

#### **‘521H Forfeiture for outstanding amount**

‘If the Minister has given a lessee or mortgagee notice of the Minister’s intention to forfeit a lease under section 235(1) or 238(2) as in force immediately before the commencement of this section, the provisions of chapter 5, part 4 as in force immediately before the commencement of this section continue to apply to the forfeiture of the lease.

#### **‘521I Requirements for plan of subdivision**

‘Section 290J as in force immediately before the commencement of this section continues to apply to a plan of subdivision lodged in the land registry before the commencement.

**‘521J Non-application of s 299A to particular documents**

‘Section 299A does not apply to a document if the particulars about the document are recorded in the relevant register before the commencement of this section.

**‘521K Application made before commencement**

- ‘(1) This section applies if an application was made under the provisions of this Act as in force before the commencement of this section (the *commencement*) and the application is not finalised on the commencement.
- ‘(2) The application continues under the provisions of the Act as in force immediately before the commencement.
- ‘(3) However, an applicant may ask that the application mentioned in subsection (1) continue under the provisions of the Act as in force immediately after the commencement.

**‘521L Continuance of power to substitute particular tenure or registered documents**

‘Despite its repeal, section 312 continues to apply for a tenure document or other registered document for land included in a register kept under section 276(e), (g) or (h).

**‘521M Permits to occupy and unallocated State land**

‘To remove any doubt, it is declared that permit land for a permit issued before the commencement of this section is, and has always been, unallocated State land if the land was unallocated State land immediately before the permit was issued.

**‘521N Dealing with disputes under particular subleases**

- ‘(1) This section applies in relation to a dispute under a sublease in force immediately before the commencement if—
  - (a) chapter 6, part 4, division 3A applies to the sublease immediately after the commencement; and
  - (b) the dispute arose before the commencement.

- ‘(2) Section 339B applies in relation to the dispute under the sublease unless, before the commencement—
- (a) a proceeding about the dispute was started in a court; or
  - (b) the issue in dispute was heard, other than in a proceeding before a court, under a dispute resolution process under another Act or the sublease.
- ‘(3) In this section—
- commencement* means the day this section commences.

**‘5210 Exclusion of imposed condition reviews for particular leases**

‘Section 211 does not apply to a lease that started before 1 July 1995.’.

**200 Amendment of sch 1 (Community purposes)**

- (1) Schedule 1, ‘beach protection and coastal management’, ‘cemeteries, crematoriums and mortuaries’, ‘heritage, historical and cultural purposes’, ‘open space and buffer zones’, ‘parks and gardens’, ‘public boat ramps, jetties and landing places’ and ‘sport and recreation’—
- omit.*
- (2) Schedule 1—
- insert—*
- ‘beach protection
  - buffer zones
  - cemeteries
  - coastal management
  - crematoriums
  - cultural purposes
  - gardens
  - heritage
  - historical

jetties

landing places

mortuaries

open space

parks

provision of services beneficial to Aboriginal people particularly concerned with land

provision of services beneficial to Torres Strait Islanders particularly concerned with land

public boat ramps

recreation

sport’.

## 201 Insertion of new sch 1A

After schedule 1—

*insert—*

### **‘Schedule 1A Provisions that include mandatory conditions for tenures**

section 198C(2)

- section 115(5)
- section 136
- section 162A
- section 168A
- section 176H
- section 190(1)
- section 198B
- chapter 5, part 2, division 1

- section 214C(3)
- section 325(5)
- section 457(1)
- section 462(1)
- section 466(1)
- section 488(2)’.

## **202 Amendment of sch 2 (Original decisions)**

(1) Schedule 2, entry for section 175(6)—

*omit.*

(2) Schedule 2—

*insert—*

- |         |   |
|---------|---|
| ‘23A    | about the allocation of a floating reserve  |
| 26B(6)  | about the value of commercial timber  |
| 109A(3) | imposing conditions on the approval for the simultaneous opening and closing of roads in deed of grant land       |
| 109B(4) | imposing conditions on the approval for the simultaneous opening and closing of roads in trust land or lease land |
| 130A(1) | about making a note in the appropriate register against a lease   |
| 155D(2) | reducing the term of a lease  |
| 176A(1) | refusal of approval of subdivision  |
| 176L(1) | refusal of approval of amalgamation   |
| 214E(2) | reducing the term of a lease  |
| 214E(2) | imposing additional conditions on a lease   |
| 239(1)  | not allowing the sale of a lease by a mortgagee   |
| 239(1)  | not allowing the sale of a lease by a relevant local government’.   |

(3) Schedule 2, ‘214(2)’—

*omit, insert—*

‘214(1)’.

## 203 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *adjoining owner, grazing homestead perpetual lease, land degradation, lease, lessee, licence, miners homestead, permit, permittee, public purpose, public utility provider, repealed Act* and *repealed miners homestead Acts—*

*omit.*

- (2) Schedule 6—

*insert—*

‘**Aboriginal people particularly concerned with land** means Aborigines particularly concerned with land within the meaning given by the *Aboriginal Land Act 1991*, section 4.

**adjoining owner** in relation to land adjoining a road, means—

- (a) the registered owner of the land, other than a trustee of a deed of grant in trust; or
- (b) if the land is lease land—the lessee; or
- (c) if the land is trust land—the trustee of the trust land.

**adjustment notice** means a notice in the approved form requesting the registrar to register an adjustment of the particulars of land under this Act.

**agreement**, for chapter 8, part 7A, see section 506A.

**amalgamation offer**, for chapter 4, part 3, division 5, see section 176L(2).

**appeal expiration day**, for a decision, means—

- (a) if an application for review of the decision is not made within the 42 days mentioned in section 424(1) or within any extended period under section 424(2)—the day the 42 days or extended period ends; or
- (b) if an application is made, the day all proceedings under chapter 7, part 3, in relation to the decision and any appeals from those proceedings, are ended.

***cancellation notice*** means a notice in the approved form requesting the registrar to register a cancellation of a tenure or interest in land under this Act.

***category***, for a lease, licence or permit, means its rental category under section 182.

***caveatee***, for a lease, licence or interest in a reserve over which a caveat has been lodged, means—

- (a) a lessee of the lease or licensee of the licence; or
- (b) someone, other than the caveator, who has an interest in the lease or licence; or
- (c) a holder of an interest in a reserve.

***caveator***, for a lease, licence or interest in a reserve over which a caveat has been lodged, means a person in whose favour the caveat is lodged.

***conditional deed*** see section 490.

***conservation agreement*** means a conservation agreement under the *Nature Conservation Act 1992*.

***conservation covenant*** means a covenant registered under section 373A that is of a type mentioned in section 373A(4)(b).

***corporation***, for chapter 8, part 7A, see section 506A.

***declared pest*** see the *Land Protection (Pest and Stock Route Management) Act 2002*, schedule 3.

***dedication notice*** means a notice in the approved form requesting the registrar to register a dedication of land under this Act.

***designated occupation licence*** means an occupation licence over—

- (a) a forest reserve; or
- (b) a national park; or
- (c) a State forest; or
- (d) a timber reserve.

***designated officer***, for a provision about a lease, licence or permit, means—

- (a) to the extent the provision is about a lease or licence—the Minister; or
- (b) to the extent the provision is about a permit—the chief executive.

***designated person***, for a provision about a lease, means—

- (a) for a freeholding lease—the Governor in Council; or
- (b) for a term or a perpetual lease—the Minister.

***existing lease***, for chapter 4, part 3, division 4, see section 176(1).

***existing leases***, for chapter 4, part 3, division 5, see section 176K(1).

***floating reservation*** means a reservation for a public purpose contained in a deed of grant, deed of grant in trust or lease if the grant or lease does not identify the particular land reserved.

***forest reserve*** has the same meaning as in the *Nature Conservation Act 1992*.

***freehold land*** means—

- (a) land recorded in the freehold land register; and
- (b) other land that has been granted or vested in fee simple.

***full supply level***, for chapter 6, part 4, division 8, see section 361.

***fund***, for chapter 8, part 7A, see section 506A.

***future conservation area*** means an area that has been identified by or for the State as an area proposed to be dedicated under the *Nature Conservation Act 1992* as a—

- (a) national park (scientific); or
- (b) national park; or
- (c) national park (Aboriginal land); or
- (d) national park (Torres Strait Islander land); or
- (e) national park (recovery); or
- (f) conservation park; or

(g) resources reserve.

**GPS** means global positioning system.

**grazing homestead perpetual lease** means—

- (a) a grazing homestead perpetual lease issued under the repealed Act; or
- (b) a grazing homestead lease, grazing farm lease or settlement farm lease that, under the *Land Act Amendment Act 1984* (No. 54), was converted to and declared to be a grazing homestead perpetual lease under the repealed Act.

**identifiable fixed features** include road intersections, fence intersections, survey marks and built infrastructure.

**ILUA register** means the Register of Indigenous Land Use Agreements under the *Native Title Act 1993* (Cwlth), section 253.

**image base** means an image or mosaic of images, including, for example an aerial photograph or a satellite image.

**imposed condition**, of a lease, licence or permit, see section 202A(2).

**indigenous access and use agreement** means—

- (a) an indigenous land use agreement; or
- (b) a contractual agreement between a lessee and Aboriginal people or Torres Strait Islanders that allows an activity as follows to be carried out on the lease land for the traditional purposes of the people or islanders—
  - (i) camping, fishing, gathering, or hunting;
  - (ii) performing rites or other ceremonies;
  - (iii) visiting sites of significance.

**indigenous land use agreement** means an indigenous land use agreement noted in the ILUA register.

**land degradation** includes any of the following—

- (a) soil erosion, salinity or scalding;

- (b) destruction of soil structure, including, for example, the loss of fertility, organic matter or nutrients;
- (c) decline in perennial pasture grasses, pasture composition and density;
- (d) low ground cover;
- (e) thickening in woody plants;
- (f) stream bank instability and slumping;
- (g) the presence of any declared pest;
- (h) water logging;
- (i) rising water tables;
- (j) a process that results in declining water quality.

***land management agreement*** see section 176U(3).

***land registry*** means the land registry under section 275.

***lease*** means the interest in land comprising a lease held under this Act, as shown by the current particulars of the interest in the appropriate register, and—

- (a) for chapter 6, part 4, division 8B, see also section 373F; or
- (b) for chapter 6, part 4, division 11A—includes sublease.

***lease land***, for a provision about a lease or proposed lease, a lease to be made available or an offer of a lease, means the land subject to the lease, proposed lease or the lease to be made available or offered.

***lessee*** means the person registered in the land registry as the holder of a lease from the State under this Act or the repealed Act, and for chapter 6, part 4, division 11A, includes sublessee.

***licence*** means the occupation rights comprising a licence held under this Act, as shown by the current particulars of the rights in the appropriate register.

***licence land***, for a provision about a licence, means the land subject to the licence.

***mandatory condition***, of a lease, licence or permit, see section 198C(2).

***mandatory standard terms document*** means a document lodged by the Minister as a standard terms document if the document states that it is a mandatory standard terms document.

***Map Grid of Australia 1994*** has the meaning given in ‘Geocentric datum of Australia technical manual’ published by the Intergovernmental Committee on Surveying and Mapping.

*Editor’s note—*

At the commencement of this definition a copy of the manual could be found on the committee’s website <[www.icsm.gov.au/icsm/gda/gdatm/](http://www.icsm.gov.au/icsm/gda/gdatm/)>.

***marker***, for a monitoring site, means a marker for the site, installed or placed under section 400.

***miners homestead*** means—

- (a) for chapter 8, part 7, division 2, see section 495; or
- (b) for chapter 8, part 7, division 2A, see section 503B.

***monitoring device*** see section 400(1)(g).

***monitoring site*** see section 400(1)(e).

***native title registrar*** means the Native Title Registrar under the *Native Title Act 1993* (Cwlth), section 253.

***natural environmental values***, of lease land, means the qualities and characteristics of the land that contribute to its biological diversity and integrity.

***natural resource***, for chapter 6, part 4, division 8B, see section 373F.

***NCA department*** means the department in which the *Nature Conservation Act 1992* is administered.

***offer***, for chapter 8, part 7, division 2, see section 495.

***operational reserve*** means a reserve that was reserved and set apart under the repealed Act for a public purpose that is not a community purpose under this Act.

*Examples of possible operational reserves—*

reserves for abattoirs, ambulance, electrical works and kindergartens

***permanent road closure application*** see section 97A.

***permit*** means the occupation rights comprising a permit held under this Act, as shown by the current particulars of the rights in the appropriate register.

***permit land***, for a provision about a permit, means the land subject to the permit.

***permittee*** means—

- (a) for a permit for a term of not more than 12 months, issued under chapter 4, part 4, that is not registered—the holder of the permit; or
- (b) otherwise—the person registered as the holder of a permit from the State issued under this Act or the repealed Act.

***public purpose*** means—

- (a) a purpose for which land may be taken under the *Acquisition of Land Act 1967*; or
- (b) a community purpose; or
- (c) a future conservation area.

***public thoroughfare easement***, for chapter 6, part 4, division 8, see section 361.

***public use land*** means land dedicated to public use by a plan of subdivision.

***public utility provider*** means—

- (a) the State or another entity representing the State; or
- (b) the Commonwealth or another entity representing the Commonwealth; or
- (c) a local government; or
- (d) a person authorised by law to provide a public utility service; or
- (e) a person approved by the Minister as suitable to provide a particular public utility service.

***rail land*** means non-rail corridor land or rail corridor land, as defined under the *Transport Infrastructure Act 1994*, that is held under a perpetual lease.

**relevant local government**, in relation to land or a tenure, means the local government in whose area the land or tenure is situated.

**relevant tenure**, in relation to a caveat, means a lease, licence or reserve.

**remedial action order** see section 214D(2).

**repealed Act** means—

- (a) for chapter 8, part 7A, see section 506A; or
- (b) otherwise, the *Land Act 1962*.

**repealed miners homestead Acts** means—

- (a) for chapter 8, part 7, division 2, see section 495; or
- (b) for chapter 8, part 7, division 2A, see section 503B.

**required particulars**, for a map of a future conservation area or a part of lease land, means—

- (a) the boundary of the area or part on an image base; and
- (b) 5 or more points visible in the image base that correspond to identifiable fixed features; and
- (c) the Map Grid of Australia 1994 coordinates and zone references for each point, acquired by GPS or similar system of satellites that receives and processes information; and
- (d) a description of the feature that each point represents.

**revocation notice** means a notice in the approved form requesting the registrar to register a revocation under this Act.

**rural leasehold land** means land for which, under this Act, leases may be issued in perpetuity or for a term of years for agricultural, grazing or pastoral purposes, other than land in any of the following—

- (a) a reserve;
- (b) a State forest;
- (c) a timber reserve;
- (d) any of the following under the *Nature Conservation Act 1992*—

- (i) a national park (scientific);
- (ii) a national park;
- (iii) a national park (Aboriginal land);
- (iv) a national park (Torres Strait Islander land);
- (v) a national park (recovery);
- (vi) a conservation park;
- (vii) a resources reserve;
- (viii) a forest reserve.

***special perpetual mining purposes lease***, for chapter 8, part 7, division 2A, see section 503B.

***State lease*** means—

- (a) a lease issued over a reserve under section 15(2)(b); or
- (b) a special lease issued over a reserve under section 203(b)<sup>8</sup> of the repealed Act.

***subdivision offer***, for chapter 4, part 3, division 4, see section 176A(2).

***surrender notice*** means a notice in the approved form requesting the registrar to register a surrender of a tenure or interest in land under this Act.

***temporary road closure application*** see section 97A.

***term lease*** means a lease for a term of years.

***Torres Strait Islanders particularly concerned with land*** means Torres Strait Islanders particularly concerned with land within the meaning given by the *Torres Strait Islander Land Act 1991*, section 4.

***transferrable land*** means transferrable land under the *Aboriginal Land Act 1991* or *Torres Strait Islander Land Act 1991*.

***transition to sale agreement*** see section 240K(2)(b).

---

8 Section 203 (Issue of special lease without notification) of the repealed Act

*trustee of trust land notice* means a notice in the approved form requesting the registrar to register particulars about the office of a trustee.’.

- (3) Schedule 6, definition *appropriate register*, paragraph (f), ‘easements over’—

*omit.*’.

- (4) Schedule 6, definition *noxious plant*, from ‘under the’ to ‘2002’—

*omit.*

- (5) Schedule 6, definition *pastoral lease*, ‘, part 3, division 1 or 2’—

*omit.*

- (6) Schedule 6, definition *reserve*, after ‘repealed Act’—

*insert*—

‘, as shown by the current particulars in the appropriate register’.

- (7) Schedule 6, definition *road closure application*, ‘section 99’—

*omit, insert*—

‘section 97A’.

- (8) Schedule 6, definition *set rent*, ‘section 183A(3)’—

*omit, insert*—

‘section 183A’.

- (9) Schedule 6, definition *unallocated State land*, paragraph (c), ‘by the State’—

*omit, insert*—

‘by or for the State, other than a permit to occupy under this Act issued by the chief executive’.



the plan, without anything further, the lot is dedicated as a reserve for the community purpose.’.

**208 Amendment of s 54A (Building management statement may be registered)**

(1) Section 54A(3), ‘At least 1 of the lots’—

*omit, insert—*

‘Each lot’.

(2) Section 54A(4)—

*omit, insert—*

‘(4) However, a building management statement that otherwise complies with subsection (3) may also apply to a lot that is not entirely or partly contained in, and does not entirely or partly contain, 1 or more buildings if the lot is the subject of a building development approval.’.

**209 Amendment of s 189A (Payment to compensated mortgagee)**

Section 189A, heading—

*omit, insert—*

**‘189A Limit on amounts recoverable by mortgagee’.**

**Part 6 Amendment of Survey and Mapping Infrastructure Act 2003**

**210 Act amended in pt 6**

This part amends the *Survey and Mapping Infrastructure Act 2003*.

**211 Amendment of s 32 (Authority for cadastral surveyor to act for another in particular circumstances)**

(1) Section 32(4) to (8)—

*renumber* as section 32(7) to (11).

(2) Section 32(1) to (3)—

*omit, insert*—

‘(1) A cadastral surveyor (the ***original surveyor***) may, in writing, authorise another person who is a cadastral surveyor (an ***authorised surveyor***) to take the action necessary to comply with any requirement about a relevant survey of the original surveyor made by—

(a) the registering entity; or

(b) for a plan of survey required for a purpose under the *Mineral Resources Act 1989*—a person acting under that Act.

‘(2) The authorisation may be for—

(a) a particular plan of survey stated in the authorisation; or

(b) a stated period.

‘(3) For subsection (2)(b), the authorisation may state it has effect until it is ended by the original surveyor.

‘(4) As soon as practicable after giving the authorisation, the original surveyor must give a copy of it to the surveyors board.

‘(5) If the original surveyor ends the authorisation, the surveyor must as soon as practicable give the surveyors board written notice of its ending.

‘(6) Subsection (7) applies if—

(a) a plan of survey has been lodged or deposited for registration; and

(b) the chief executive reasonably believes the cadastral surveyor responsible for the survey’s survey quality can not comply with a requirement about the plan.’.

(3) Section 32(9)(b), as renumbered, ‘that the action’—

*omit, insert*—



- ‘(2) Without limiting subsection (1), a guideline may be about—
- (a) in relation to a registrant carrying out a cadastral survey, the supervision the board considers necessary—
    - (i) to help ensure the survey’s survey quality; or
    - (ii) to help the registrant gain a relevant competency for a registration or registration endorsement; or
  - (b) matters that relate to the code of practice and may help registrants comply with the code.
- ‘(3) The board must ensure registrants are notified of the making of a guideline and any amendment of it.
- ‘(4) The board must publish each guideline, as in force from time to time, on the board’s web site on the internet.’.

## **215 Amendment of sch 3 (Dictionary)**

- (1) Schedule 3, definition *professional conduct*, paragraph (b), ‘for a survey’—  
*omit, insert—*  
 ‘for a survey, including, for example, a cadastral survey carried out under the supervision of the registrant or former registrant’.
- (2) Schedule 3, definition *professional conduct*, paragraph (d)(iii)—  
*omit, insert—*  
 ‘(iii) the *Survey and Mapping Infrastructure Act 2003*, including survey standards made under that Act; or  
 (iv) survey standards made under the repealed Act.’.
- (3) Schedule 3, definition *professional misconduct*, paragraph (d)(iii)—  
*omit, insert—*  
 ‘(iii) the *Survey and Mapping Infrastructure Act 2003*, including survey standards made under that Act; or  
 (iv) survey standards made under the repealed Act.’.

## **Part 8** **Amendment of Transport Infrastructure Act 1994**

### **216 Act amended in pt 8**

This part amends the *Transport Infrastructure Act 1994*.

### **217 Insertion of new s 477A**

After section 477—

*insert—*

#### **‘477A Power to deal with particular land**

‘(1) The chief executive may apply under the *Land Act 1994* for the issue of a deed of grant for a part of rail land if the chief executive considers the issue of the deed of grant is necessary—

- (a) to facilitate development for commercial purposes; or
- (b) to provide community infrastructure.

‘(2) In this section—

*community infrastructure* means community infrastructure stated in the *Integrated Planning Act 1997*, schedule 5.

*rail land* means non-rail corridor land or rail corridor land that is held under a perpetual lease under the *Land Act 1994*.’.

## **Part 9** **Amendment of Vegetation Management Act 1999**

### **218 Act amended in pt 9**

This part amends the *Vegetation Management Act 1999*.

### **219 Insertion of new pt 2, div 4, sdiv 1 hdg**

Before section 16—

*insert—*

**‘Subdivision 1      Declarations by Governor in  
Council or Minister’.**

**220      Insertion of new pt 2, div 4, sdiv 2**

Part 2, division 4, after section 19D—

*insert—*

**‘Subdivision 2      Declarations by chief executive**

**‘19E      Request for declaration**

- ‘(1) The owner of land (the *proponent*) may, by written notice given to the chief executive, ask the chief executive to declare that a stated area of the land is—
- (a) an area of high nature conservation value; or
  - (b) an area vulnerable to land degradation.
- ‘(2) The notice must be accompanied by a management plan for the stated area.
- ‘(3) The management plan must—
- (a) be signed by the proponent; and
  - (b) include enough information to allow the chief executive to map the boundary of the stated area; and
  - (c) state the proponent’s management intent, and management outcomes proposed by the proponent, for the conservation of the high nature conservation value of the area or the prevention of land degradation in the area; and
  - (d) state the activities the proponent intends to carry out, or refrain from carrying out, to achieve the management outcomes mentioned in paragraph (c); and
  - (e) state the restrictions, if any, to be imposed on the use of, or access to, the area by other persons to achieve the management outcomes mentioned in paragraph (c).

- ‘(4) Subsection (3) does not limit the matters the management plan may contain.

### **‘19F Making declaration**

- ‘(1) The chief executive may, by written notice given to the proponent, declare that the stated area is—
- (a) an area of high nature conservation value; or
  - (b) an area vulnerable to land degradation.
- ‘(2) If a person other than the proponent has a registered interest in the stated area the chief executive must not make the declaration without the person’s written consent.
- ‘(3) The chief executive need not make a declaration for the stated area if the chief executive—
- (a) prepares a code for the clearing of vegetation in the area and the proponent does not agree, under section 19H(2), that it is the code for the clearing of vegetation in the area; or
  - (b) considers the making of the declaration is not in the interests of the State, having regard to the public interest.
- ‘(4) In this section—
- registered* means registered under the *Land Act 1994* or *Land Title Act 1994*.

### **‘19G Particular criteria for declaration**

- ‘(1) The chief executive may declare an area to be an area of high nature conservation value only if the chief executive considers—
- (a) implementation of the management plan for the area will help to conserve its high nature conservation value; and
  - (b) the area is 1 or more of the following—
    - (i) a wildlife refugium;
    - (ii) a centre of endemism;

- (iii) an area containing a vegetation clump or corridor that contributes to the maintenance of biodiversity;
  - (iv) an area that makes a significant contribution to the conservation of biodiversity;
  - (v) an area that contributes to the conservation value of a wetland, lake or spring stated in the notice mentioned in section 19F(1) for the declaration;
  - (vi) another area that contributes to the conservation of the environment.
- ‘(2) The chief executive may declare an area to be an area vulnerable to land degradation only if the chief executive considers—
- (a) implementation of the management plan for the area will help to prevent or minimise land degradation in the area; and
  - (b) the area is subject to 1 or more of the following—
    - (i) soil erosion;
    - (ii) rising water tables;
    - (iii) the expression of salinity, whether inside or outside the area;
    - (iv) mass movement by gravity of soil or rock;
    - (v) stream bank instability;
    - (vi) a process that results in declining water quality.
- ‘(3) An area declared under this subdivision may include an area of regrowth vegetation.

#### ‘19H Code for clearing of vegetation

- ‘(1) The chief executive may prepare a code for the clearing of vegetation in an area declared to be a declared area under this subdivision.
- ‘(2) A code mentioned in subsection (1) is the code for the clearing of vegetation in the declared area (a ***declared area code***) if, before the declaration for the area is made, the proponent agrees by written notice given to the chief

executive that it is the code for the clearing of vegetation in the area.

- ‘(3) If there is no declared area code for the area, the regional vegetation management code for the region of the State in which the area is situated is the code for the clearing of vegetation in the area.
- ‘(4) The chief executive may, with the agreement of the owner of the land the subject of a declared area code, amend the code.

### **‘19I Amendment of management plan**

‘The chief executive may, with the agreement of the owner of the land the subject of a management plan, amend the plan.

### **‘19J When management plan stops having effect**

‘A management plan for a declared area has effect until the earlier of the following happens—

- (a) the plan ends under its terms;
- (b) the declaration of the area as a declared area ends under section 19L.

### **‘19K Recording of declared areas and management plans**

- ‘(1) As soon as practicable after declaring an area to be a declared area, the chief executive must give the registrar of titles written notice of—
  - (a) the declaration; and
  - (b) the management plan for the declared area.
- ‘(2) The notice must include particulars of the land the subject of the declaration.
- ‘(3) The registrar must keep records that—
  - (a) show the land is a declared area; and
  - (b) state the places where particulars of the management plan may be inspected.

- ‘(4) The registrar must keep the records in a way that a search of the register kept by the registrar under any Act relating to title to the land will show—
- (a) the declaration has been made; and
  - (b) the existence of the management plan.
- ‘(5) As soon as practicable after a declaration ends or a management plan for the land the subject of a declaration stops having effect—
- (a) the chief executive must give the registrar written notice of the fact; and
  - (b) the registrar must remove the particulars of the declaration or management plan from the registrar’s records.
- ‘(6) While a management plan has effect for the land and is recorded by the registrar under this section, the plan is binding on—
- (a) each person who is from time to time the owner of the land, whether or not the person signed the plan or agreed to any amendment of the plan; and
  - (b) each person who has an interest in the land.

### **‘19L Ending declaration**

‘The chief executive may, by written notice given to the owner of the land the subject of a declaration under this subdivision, end the declaration if the chief executive considers—

- (a) the declaration is not in the interests of the State, having regard to the public interest; or
- (b) the management outcomes mentioned in section 19E(3)(c) for the management plan relevant to the declaration have been achieved.

### **‘19M Information to be available for inspection**

- ‘(1) For each declaration under this subdivision, the chief executive must keep a copy of the following documents available for inspection—

- (a) the notice given to the proponent under section 19F(1);
  - (b) the management plan relevant to the declaration;
  - (c) the declared area code, if any, relevant to the declaration.
- ‘(2) The documents must be kept at the department’s head office and each regional office the chief executive considers appropriate.
- ‘(3) The chief executive must, on payment by a person of the reasonable fee decided by the chief executive, give a copy of a document mentioned in subsection (1) to the person.’.

**221 Amendment of s 20B (When chief executive may make property map of assessable vegetation)**

Section 20B(2)—

*omit.*

**222 Amendment of s 20E (When maps may be revoked)**

- (1) Section 20E(1)(a), ‘section 20B(1)(a)’—  
*omit, insert—*  
‘section 20B(a)’.
- (2) Section 20E(1)(b), ‘section 20B(1)(c)’—  
*omit, insert—*  
‘section 20B(c)’.
- (3) Section 20E(1)(c), ‘section 20B(1)(d)’—  
*omit, insert—*  
‘section 20B(d)’.
- (4) Section 20E(1)(d), ‘section 20B(1)(e)’—  
*omit, insert—*  
‘section 20B(e)’.
- (5) Section 20E(1)—  
*insert—*

- ‘(e) for a map made under section 20B(b) for a declared area under division 4, subdivision 2—the declaration for the area ends.’.

**223 Amendment of s 22A (Particular vegetation clearing applications may be assessed)**

- (1) Section 22A(2)(d)—

*omit, insert—*

- ‘(d) for establishing a necessary fence, firebreak, road or vehicular track, or for constructing necessary built infrastructure, if there is no suitable alternative site for the fence, firebreak, road, track or infrastructure; or’.

- (2) Section 22A—

*insert—*

- ‘(2C) In addition, a vegetation clearing application is not for a relevant purpose under this section if the development applied for is—
- (a) mentioned in subsection (2)(e), (f), (i) or (j); and
- (b) proposed for an area declared to be a declared area under division 4, subdivision 2.’.

**224 Amendment of s 22C (Modifying Planning Act effect of appeal rights on ongoing applications (assessment manager))**

- (1) Section 22C, heading, ‘ongoing’—

*omit, insert—*

**‘particular’.**

- (2) Section 22C(1), ‘an ongoing application’—

*omit, insert—*

‘a vegetation clearing application that is for a relevant purpose under section 22A’.

- (3) Section 22C(2), from ‘a tribunal’—

*omit, insert—*

‘the Planning and Environment Court under the Planning Act, section 4.1.27.’.

**225 Amendment of s 22D (Modifying Planning Act effect of appeal rights on ongoing applications (concurrency agency))**

(1) Section 22D, heading, ‘ongoing’—

*omit, insert—*

**‘particular’.**

(2) Section 22D(1), ‘an ongoing application’—

*omit, insert—*

‘a vegetation clearing application that is for a relevant purpose under section 22A’.

**226 Insertion of new pt 6, div 4**

After section 83—

*insert—*

**‘Division 4 Transitional provision for Land and Other Legislation Amendment Act 2007**

**‘84 Existing appeals under s 22C**

‘(1) Subsection (2) applies if, before the commencement—

(a) a person has appealed to a tribunal under the Planning Act, section 4.2.9, about an application for which section 22C as in force before the commencement applied; and

(b) the appeal has not been decided.

‘(2) The tribunal may hear, or continue to hear, and decide the appeal as if the *Land and Other Legislation Amendment Act 2007*, part 9, had not commenced.

‘(3) In this section—

***commencement*** means the day this section commences.’.

**227 Amendment of schedule (Dictionary)**

- (1) Schedule, definitions *declared area code*, *ongoing application* and *unlawfully cleared*—  
*omit.*

- (2) Schedule—  
*insert—*

***‘declared area code—***

- (a) for a declared area under part 2, division 4, subdivision 1—see section 17(2); and  
(b) for a declared area under part 2, division 4, subdivision 2—see section 19H(2).

***proponent***, for part 2, division 4, subdivision 2, see section 19E(1).

***road*** see the *Transport Infrastructure Act 1994*, schedule 6.

***unlawfully cleared*** means cleared of vegetation by a person in contravention of—

- (a) a vegetation clearing provision, if the person—  
(i) has not contested an infringement notice given for the contravention; or  
(ii) has been convicted of the contravention, whether or not the conviction is recorded; or  
(b) a tree clearing provision under the *Land Act 1994*, as in force before the commencement of the *Vegetation Management and Other Legislation Amendment Act 2004*, section 3.’.
- (3) Schedule, definitions *category 1 area*, *category 2 area* and *category 3 area*, paragraph (b), ‘an ongoing application for the area’—

*omit, insert—*

‘a vegetation clearing application for the area that was for a relevant purpose under section 22A’.

- (4) Schedule, definition *category 1 area*—  
*insert—*

- (f) is subject to any of the following notices containing conditions about restoration of vegetation—
- (i) a compliance notice;
  - (ii) an enforcement notice under the Planning Act.’.
- (5) Schedule, definition *declared area*, ‘section 17 or 18’—  
*omit, insert—*  
‘section 17, 18 or 19F’.
- (6) Schedule, definition *forest practice*, paragraph 1, after ‘freehold land’—  
*insert—*  
‘or indigenous land on which the State does not own the trees’.
- (7) Schedule, definition *forest practice*, paragraph 1(b)(ii), ‘if there is no code, the all’—  
*omit, insert—*  
‘if there is no code, all the’.
- (8) Schedule 10, definition *forest practice*, paragraph 2, ‘road construction and maintenance’—  
*omit, insert—*  
‘construction and maintenance of roads or vehicular tracks’.