



Queensland

Land, Water and Other Legislation Amendment Act 2013

Act No. 23 of 2013



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Contents

		Page
Part 1	Preliminary	
1	Short title	26
2	Commencement	26
Part 2	Amendment of Aboriginal Land Act 1991	
3	Act amended	26
4	Amendment of s 11 (DOGIT land)	26
5	Amendment of s 12 (Aboriginal reserve land)	27
6	Amendment of s 45 (Existing interests)	27
7	Replacement of s 47 (Cancellation of deed of grant in trust)	28
	47 Cancellation of deed of grant in trust	28
8	Amendment of s 48 (Cancellation of leases over Aurukun and Mornington Shire lease lands)	28
9	Amendment of s 177 (Claimable land recommended for grant taken to be transferable land)	28
10	Amendment of s 250 (Minister may appoint member)	29
11	Insertion of new s 250A	29
	250A Land trust may appoint member	29
12	Replacement of pt 20, div 2, sdiv 2, hdg (Removal or suspension of members)	30
13	Amendment of s 251 (Grounds for removal or suspension of member)	30
14	Amendment of s 252 (Show cause notice)	31
15	Amendment of s 255 (Removing or suspending member)	31
16	Insertion of new s 255A	31
	255A Effect of removing member on other land trust membership	31
17	Replacement of s 256 (Immediate removal or suspension of member)	31

Contents

	256	Immediate suspension of member	31
18		Replacement of pt 20, div 2, sdiv 3 (Other matters).	33
	Subdivision 4	Removal or suspension of members by land trust	
	257	Proposed removal or suspension approved by resolution and show cause notice	33
	257A	Representations about show cause notice.	34
	257B	Land trust decisions about removal or suspension of member	34
	257C	Decisions about removal or suspension of member referred to land trust general meeting	36
	257D	Action after decision about removal or suspension of member	37
	257E	Immediate suspension of member	37
	257F	Limitation on land trust's power about suspension of member	39
	Subdivision 5	Information about appointment, removal or resignation of members	
	257G	Information about appointment, removal or resignation of members	39
19		Insertion of new s 265A	39
	265A	Resolution of executive committee without meeting.	40
20		Insertion of new pt 25, div 4	40
	Division 4	Transitional provision for Land, Water and Other Legislation Amendment Act 2013	
	306	Continuation of Mornington Shire subleases	40
21		Amendment of sch 1 (Dictionary).	41
Part 3		Amendment of Acquisition of Land Act 1967	
22		Act amended	42
23		Amendment of s 2 (Definitions)	42
24		Insertion of new ss 3 and 4	44
	3	Meaning of multi-parcel purpose	44
	4	Relationship with other Acts	45
25		Amendment of s 9 (Ways in which land is to be taken)	46
26		Amendment of s 11 (Amending of gazette resumption notice).	47
27		Amendment of s 12 (Effect of gazette resumption notice)	48
28		Replacement of s 15 (Taking by agreement)	48
	Division 3	Taking by agreement	
	Subdivision 1	Resumption agreements	

	15	Meaning of resumption agreement	48
		Subdivision 2 Process for taking	
	15A	Application of sdiv 2	50
	15B	Limit on taking under sdiv 2	50
	15C	Taking by Governor in Council	50
	15D	Taking by constructing authority	51
		Subdivision 3 Miscellaneous	
	15E	When taking is effective	52
	15F	Non-application of sections 7 to 9	52
	15G	When constructing authority is taken to have discontinued resumption	52
	15H	No limit on other acquisition of land	53
29		Amendment of s 17 (Revocation before determination of compensation)	53
30		Replacement of s 36B (Minister may delegate certain authorities and functions).	53
	36B	Delegation by Minister	53
31		Insertion of new pt 6, div 4	54
		Division 4 Provisions for Land, Water and Other Legislation Amendment Act 2013	
	48	Definitions for div 4	54
	49	Applications under previous section 9(2)	55
	50	Agreements for taking under previous section 15(1)	55
	51	Delegations by Minister	55
32		Numbering of schedule (Purposes for taking land)	56
33		Insertion of new sch 2	56
		Schedule 2 Dictionary	
Part 4		Amendment of Cape York Peninsula Heritage Act 2007	
34		Act amended	56
35		Amendment of s 7 (Meaning of Cape York Peninsula Region)	56
Part 5		Amendment of City of Brisbane Act 2010	
36		Act amended	57
37		Amendment of s 40 (Development processes)	57
Part 6		Amendment of Foreign Ownership of Land Register Act 1988	
38		Act amended	57
39		Insertion of new s 2	58

Contents

	2	Definitions.	58
40		Amendment of s 4 (Interpretation)	58
41		Insertion of new sch 1	59
		Schedule 1 Dictionary	
Part 7		Amendment of Land Act 1994	
42		Act amended	60
43		Amendment of s 8 (Definitions for pt 4)	60
44		Amendment of s 13B (Power to declare and deal with former watercourse land)	60
45		Amendment of s 23A (Floating reservation on plan of subdivision)	61
46		Amendment of s 24 (Disposal of reservations no longer needed)	61
47		Replacement of ss 31C to 31E.	62
	31C	Applying for dedication of reserve	62
	31D	Applying for adjustment of reserve	62
48		Amendment of s 31F (Notice of registration of action in relation to reserve)	63
49		Amendment of s 34 (Applying to revoke dedication of reserve) . .	63
50		Amendment of s 34E (Notice of revocation)	64
51		Amendment of s 34I (Applying for deed of grant)	64
52		Amendment of s 34N (Notice of registration of deed of grant) . . .	65
53		Amendment of s 38A (Applying for additional community purpose, amalgamation or cancellation)	65
54		Amendment of s 38D (Notice of registration of action)	66
55		Amendment of s 55A (Applying to surrender)	66
56		Amendment of s 55E (Notice of surrender)	67
57		Amendment of s 57 (Trustee leases)	67
58		Amendment of s 57A (Amending a trustee lease)	68
59		Amendment of s 58 (Other transactions relating to trustee leases)	69
60		Amendment of s 63 (Rent to be charged)	70
61		Amendment of s 97A (Definitions for div 2)	70
62		Amendment of s 99 (Application to close road)	70
63		Amendment of s 115 (Conditions of sale)	71
64		Amendment of s 136 (Conditions of offer and lease)	71
65		Amendment of s 155 (Length of term leases)	71
66		Amendment of s 155AA (Application of division 1B)	71
67		Amendment of s 158 (Application for new lease)	71
68		Amendment of s 159 (General provisions for deciding application)	71

69	Amendment of s 160A (Land management agreement condition for particular offers)	72
70	Amendment of s 162A (Conditions imposed on particular new leases)	72
71	Amendment of s 164 (Short term extension)	72
72	Amendment of s 166 (Application to convert lease)	72
73	Amendment of s 167 (Provisions for deciding application)	73
74	Amendment of s 168A (Land management agreement for new perpetual lease)	73
75	Amendment of s 173A (Short-term extension)	73
76	Amendment of s 176A (General provisions for deciding application)	74
77	Amendment of s 176L (General provisions for deciding application)	74
78	Insertion of new s 176UA	74
	176UA Power to require land management agreement in particular circumstances	74
79	Amendment of s 177A (Applying for permit)	75
80	Amendment of s 177D (Notice of permit)	76
81	Amendment of s 180 (When permit may be cancelled or surrendered)	76
82	Amendment of s 180A (Applying to cancel or surrender permit) .	77
83	Amendment of s 180E (Notice about cancellation or surrender) .	77
84	Insertion of new s 183B	78
	183B No rent payable once offer to convert lease is accepted	78
85	Amendment of s 188A (Limited rent discount for particular leases)	78
86	Omission of ch 5, pt 1A (Future conservation areas)	79
87	Amendment of s 201A (Land management agreement condition)	79
88	Amendment of s 234 (When lease may be forfeited)	79
89	Amendment of s 240I (Sale of lease)	79
90	Insertion of new s 284A	80
	284A Fee required to produce document under subpoena etc.	80
91	Amendment of s 290JA (Dedication of public use land in plan) . .	81
92	Amendment of s 290JB (Access for public use land)	82
93	Amendment of s 322A (Severing joint tenancy by transfer)	82
94	Amendment of s 327B (Applying to surrender)	82
95	Replacement of s 327C (Notice of proposal to approve surrender of lease)	83
	327C Applying to surrender lease	83
96	Amendment of s 327F (Notice of surrender)	83

Contents

97	Amendment of s 332 (Subleases require Minister's approval) . . .	83
98	Replacement of s 360D (Notice of proposal to amend lease) . . .	84
	360D Notice of intention to apply to amend lease	85
99	Amendment of s 360F (Notice of registration of amendment of lease)	85
100	Amendment of s 369 (Public utility easements)	85
101	Amendment of s 420C (Requirements for making an application)	85
102	Insertion of new ss 420CA and 420CB	86
	420CA Requirements for giving notice of intention to apply . .	86
	420CB Submissions	87
103	Insertion of new s 420FA	87
	420FA Regard may be had to information and advice	88
104	Amendment of s 481B (Application to cancel or surrender)	88
105	Amendment of s 481G (Notice of cancellation or absolute surrender)	89
106	Insertion of new ch 9, pt 1K	90
	Part 1K Transitional provisions for Land, Water and Other Legislation Amendment Act 2013	
	521ZD Definitions for pt 1K	90
	521ZE Cancellation of land management agreements	90
	521ZF Prohibition on cancellation of particular land management agreements	91
	521ZG Particular conditions about land management agreements for relevant term leases	92
	521ZH Extension and reduction of relevant term leases	92
	521ZI Existing term lease applications	92
107	Amendment of sch 2 (Original decisions)	93
108	Amendment of sch 3 (Requirements for approved agreements) .	93
109	Amendment of sch 6 (Dictionary)	94
Part 8	Amendment of Land Title Act 1994	
110	Act amended	96
111	Insertion of new s 35A	96
	35A Fee required to produce document under subpoena etc. .	96
112	Amendment of s 47 (Alienated State land to be registered)	97
113	Amendment of s 50 (Requirements for registration of plan of subdivision)	97
114	Amendment of s 51 (Dedication of public use land in plan)	98
115	Amendment of s 51A (Access for public use land)	99

116	Renumbering of s 54 (Division excluding road or watercourse) . .	99
117	Insertion of new pt 4, div 3A	99
	Division 3A Dedication of road by notice	
	54 Dedication of road by notice	99
118	Amendment of s 59 (Severing joint tenancy)	100
119	Amendment of s 67 (Amending a lease)	101
120	Amendment of s 81A (Definitions for div 4)	101
121	Amendment of s 82 (Creation of easement by registration)	102
122	Amendment of s 83 (Registration of easement)	103
123	Amendment of s 83A (Registration of plan showing proposed easement)	104
124	Amendment of s 84 (Limitation of easements)	104
125	Amendment of s 89 (Easements for public utility providers)	104
126	Insertion of new s 90A	104
	90A When easement over registered lease ends	104
127	Amendment of s 91 (Amending an easement)	105
128	Insertion of new pt 6, div 4AA	105
	Division 4AA High-density development easements	
	93 Application of div 4AA	105
	94 Meaning of high-density development easement	105
	95 Easement for support	106
	96 Easement for shelter	108
	96A Easements for projections	108
	96B Easement for maintenance of building close to boundary	109
	96C Easement for roof water drainage	110
	96D Insurance requirements	111
	96E Notice of entry	112
129	Amendment of s 105 (Lapsing of caveat)	113
130	Amendment of s 107 (Refusing or compromising application)	113
131	Amendment of s 112 (Registering beneficiary)	113
132	Amendment of s 115N (Easements for support)	113
133	Amendment of s 126 (Lapsing of caveat)	114
134	Amendment of s 128 (Cancelling a caveat)	115
135	Amendment of s 133 (Registering power of attorney)	115
136	Amendment of s 151 (Effect of transferee's notice on caveat)	116

Contents

137	Amendment of s 154 (Lodging certificate of title)	116
138	Omission of s 163 (Substitute instrument)	117
139	Amendment of sch 1 (Witnesses to instruments)	117
140	Amendment of sch 2 (Dictionary)	117
Part 9	Amendment of Land Valuation Act 2010	
Division 1	Preliminary	
141	Act amended	119
Division 2	Amendments commencing on assent	
142	Amendment of s 74 (Exceptions to annual valuation requirement)	119
143	Amendment of s 112 (What is a properly made objection)	120
144	Insertion of new s 131A	120
	131A Immunity from civil liability	120
145	Amendment of s 157 (How to appeal)	120
146	Amendment of s 248 (Substituted service)	121
Division 3	Amendments commencing by proclamation	
147	Amendment of s 247 (General address for service)	121
148	Insertion of new s 247A	121
	247A Electronic service	121
149	Amendment of schedule (Dictionary)	122
Part 10	Amendment of Local Government Act 2009	
150	Act amended	123
151	Amendment of s 37 (Development processes)	123
Part 11	Amendment of Petroleum Act 1923	
Division 1	Preliminary	
152	Act amended	123
Division 2	Amendments commencing on assent	
153	Amendment of s 2 (Definitions)	123
154	Amendment of s 75L (Restrictions on making conversion)	124
155	Amendment of s 75U (Obligation to decommission)	124
156	Amendment of s 75V (Right of entry to facilitate decommissioning)	125
157	Amendment of s 75W (Responsibility for well or bore after decommissioning)	125
158	Amendment of s 75X (Requirement to report outcome of testing)	126
159	Amendment of s 86 (Water rights)	126
160	Insertion of new pt 15	126

	Part 15	Transitional provisions for Land, Water and Other Legislation Amendment Act 2013	
	199	Definitions for pt 15	126
	200	Continuation of conversion of well	127
Division 3		Amendments commencing by proclamation	
161		Amendment of s 2 (Definitions)	127
162		Replacement of s 75K (Restriction on who may drill water observation bore or water supply bore)	128
	75K	Restriction on who may drill water observation bore or water supply bore	128
163		Replacement of pt 6D, div 2 (Converting well to water supply bore)	128
	Division 2	Converting well to water observation bore or water supply bore	
	75KA	Application of div 2	129
	75L	Restrictions on making conversion	129
	75M	Notice of conversion	130
	75MA	Time of conversion	130
164		Replacement of s 75Q (Transfer of water observation bore or water supply bore to landowner)	130
	75Q	Transfer of water observation bore or water supply bore to landowner	130
165		Amendment of s 75S (Transfer of water observation bore to petroleum tenure holders or water monitoring authority holder) . .	132
166		Insertion of new s 75XA	132
	75XA	Notice about water observation bore or water supply bore to Water Act regulator	132
167		Insertion of new ss 201–205	132
	201	Drilling water observation bores or water supply bores	133
	202	Converting wells to water supply bores	133
	203	Minister’s consent required for particular transfers of water observation bores or water supply bores to landowners	134
	204	Statement on approved form under s 75Q if bore drilled or well converted before the commencement . .	134
	205	Statement on approved form under s 75S if water observation bore drilled before the commencement . .	135
Part 12		Amendment of Petroleum and Gas (Production and Safety) Act 2004	
Division 1		Preliminary	
168		Act amended	136

Contents

Division 2	Amendments commencing on assent	
169	Amendment of s 185 (Underground water rights)	136
170	Omission of s 186 (Right to allow use of associated water for domestic or stock purposes)	136
171	Amendment of s 188 (Authorisation for Water Act)	136
172	Amendment of s 283 (Restrictions on making conversion)	137
173	Amendment of s 292 (Obligation to decommission).	137
174	Amendment of s 294 (Responsibility for well or bore after decommissioning)	138
175	Amendment of s 543 (Requirement of petroleum tenure holder to report outcome of testing)	139
176	Amendment of s 670 (What is an operating plant)	139
177	Amendment of s 675 (Content requirements for safety management plans)	139
178	Insertion of new ch 15, pt 16	140
	Part 16 Transitional provisions for Land, Water and Other Legislation Amendment Act 2013	
	977 Definitions for pt 16.	140
	978 Continuation of conversion of well	140
Division 3	Amendments commencing by proclamation	
179	Replacement of s 282 (Restriction on who may drill water observation bore or water supply bore)	141
	282 Restriction on who may drill water observation bore or water supply bore	141
180	Replacement of ch 2, pt 10, div 2 (Converting petroleum well to water supply bore)	141
	Division 2 Converting petroleum well to water observation bore or water supply bore	
	282A Application of div 2	142
	283 Restrictions on making conversion.	142
	284 Notice of conversion	143
	284A Time of conversion	143
181	Amendment of s 288 (Transfer of water observation bore or water supply bore to landowner)	143
182	Amendment of s 290 (Transfer of water observation bore to petroleum tenure or water monitoring authority holder)	144
183	Insertion of new s 543A	144
	543A Notice about water observation bore or water supply bore to Water Act regulator	144
184	Amendment of s 670 (What is an operating plant)	145

185	Insertion of new ss 979–982	145
	979 Drilling water observation bores or water supply bores	145
	980 Converting petroleum wells to water supply bores . . .	146
	981 Statement on approved form under s 288 if bore drilled or well converted before the commencement .	146
	982 Statement on approved form under s 290 if water observation bore drilled before the commencement .	147
186	Amendment of sch 2 (Dictionary)	147
Part 13	Amendment of River Improvement Trust Act 1940	
Division 1	Preliminary	
187	Act amended	148
Division 2	Amendments commencing on assent	
188	Amendment of s 2 (Definitions)	148
189	Replacement of s 5 (Membership of trust)	149
	Division 1 Membership	
	5 Membership of trust	149
	5A Appointment of members to vacancies	150
	5B Application of particular provisions of Local Government Act	151
	Division 2 Eligibility for membership	
	5C Eligibility for appointment as member.	151
	5D Investigations about eligibility for appointment	152
	5E Criminal history is confidential document.	152
	Division 3 Executive members	
	5F Chairperson	153
	5G Deputy chairperson	154
	5H Term of office	154
	Division 4 Vacancies of office	
	5I Casual vacancy	155
	5J Resignation	155
	5K Removal from office as member.	156
	5L Removal from office as chairperson or deputy chairperson	156
	5M Removal of all trust members.	157
	Division 5 Procedures	
	5N Times and places of meetings	158
	5O Quorum	158

Contents

	5P	Presiding at meetings	158
	5Q	Conduct of meetings	158
	5R	Other procedures	159
	Division 6	Other matters	
	5S	Validity of trust's acts, proceedings or decisions	159
190		Amendment of s 10 (Works which trust shall undertake or maintain)	159
191		Insertion of new pt 9, div 2 and sch 1	160
	Division 2	Transitional provisions for Land and Water and Other Legislation Amendment Act 2013	
	25	Definition for div 2	160
	26	Continuation of office of existing members, chairperson and deputy chairperson	160
	27	Application of new membership requirements to existing trusts	161
	28	Deferral of requirement to elect or appoint chairperson or elect deputy chairperson	162
	Schedule 1	Dictionary	
Division 3		Amendments commencing by proclamation	
192		Insertion of new s 20B	162
	20B	Fees and allowances for chairperson and members .	163
193		Amendment of s 22 (Regulation-making power)	163
Part 14		Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009	
194		Act amended	163
195		Amendment of s 53 (Delegation)	163
196		Amendment of s 99BJ (Requirement for SEQ service provider to have plan)	164
197		Amendment of s 99BL (Requirement for SEQ service provider to review plan)	164
Part 15		Amendment of Sustainable Planning Act 2009	
198		Act amended	164
199		Amendment of s 755A (Definitions for pt 7A)	164
200		Amendment of s 755G (Compliance assessment—local government as compliance assessor)	165
201		Amendment of s 755H (Compliance assessment—nominated entity as compliance assessor)	165
202		Amendment of s 755I (Notice about compliance permits and compliance certificates)	165
203		Insertion of new ch 10, pt 7	165

	Part 7	Transitional provision for Land, Water and Other Legislation Amendment Act 2013	
	947	Amendment of regulation by Land, Water and Other Legislation Amendment Act 2013 does not affect powers of Governor in Council	166
Part 15A		Amendment of Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012	
203A		Act amended	166
203B		Amendment of s 2 (Commencement)	166
203C		Amendment of s 35 (Insertion of new ch 6, pt 1, div 4, sdiv 2A)	167
203D		Insertion of new s 51A	168
	51A	Amendment of s 367 (What is a permissible change for a development approval)	168
203E		Insertion of new ss 84A to 84F	168
	84A	Amendment of ch 8, pt 1, div 8, hdg (Conditions State infrastructure providers may impose for infrastructure)	169
	84B	Amendment of s 653 (Conditions State infrastructure provider may impose)	169
	84C	Amendment of s 654 (Requirements for conditions about safety or efficiency)	169
	84D	Amendment of s 655 (Requirements for conditions about additional infrastructure costs)	170
	84E	Amendment of s 656 (State infrastructure provider additional infrastructure costs in priority infrastructure areas)	170
	84F	Amendment of s 657 (State infrastructure provider additional infrastructure costs outside priority infrastructure areas)	171
203F		Amendment of s 122 (Insertion of new ch 10, pt 6)	171
203G		Amendment of s 123 (Amendment of sch 3 (Dictionary))	173
Part 16		Amendment of Sustainable Planning Regulation 2009	
204		Regulation amended	173
205		Amendment of sch 7 (Referral agencies and their jurisdictions)	174
Part 17		Amendment of Torres Strait Islander Land Act 1991	
206		Act amended	174
207		Amendment of s 10 (DOGIT land)	174
208		Amendment of s 11 (Torres Strait Islander reserve land)	174
209		Replacement of s 43 (Cancellation of deed of grant in trust)	175
	43	Cancellation of deed of grant in trust	175

Contents

210	Replacement of pt 14, div 2, hdg (Minister's power to appoint, remove or suspend members of land trusts)	175
211	Amendment of s 156 (Minister may appoint member)	175
212	Insertion of new s 156A	176
	156A Land trust may appoint member.	176
213	Replacement of pt 14, div 2, sdiv 2, hdg (Removal or suspension of members)	176
214	Amendment of s 157 (Grounds for removal or suspension of member)	177
215	Amendment of s 158 (Show cause notice).	177
216	Amendment of s 161 (Removing or suspending member).	178
217	Insertion of new s 161A	178
	161A Effect of removing member on other land trust membership	178
218	Replacement of s 162 (Immediate removal or suspension of member)	178
	162 Immediate suspension of member	178
219	Replacement of pt 14, div 2, sdiv 3 (Other matters).	180
	Subdivision 4 Removal or suspension of members by land trust	
	163 Proposed removal or suspension approved by resolution and show cause notice	180
	163A Representations about show cause notice.	181
	163B Land trust decisions about removal or suspension of member	181
	163C Decisions about removal or suspension of member referred to land trust general meeting	183
	163D Action after decision about removal or suspension of member	184
	163E Immediate suspension of member	184
	163F Limitation on land trust's power about suspension of member	186
	Subdivision 5 Information about appointment, removal or resignation of members	
	163G Information about appointment, removal or resignation of members	186
220	Insertion of new s 171A	187
	171A Resolution of executive committee without meeting.	187
221	Amendment of sch 1 (Dictionary).	187

Part 18	Amendment of Vegetation Management Act 1999	
222	Act amended	188
223	Amendment of s 11 (Minister must make regional vegetation management codes).	189
224	Insertion of new s 20ADA	189
	20ADA What is the vegetation management watercourse map	189
225	Insertion of new pt 6, div 8	189
	Division 8 Transitional provision for Land, Water and Other Legislation Amendment Act 2013	
	109 Validation for reliance on particular maps	190
226	Amendment of schedule (Dictionary)	191
Part 19	Amendment of Water Act 2000	
Division 1	Preliminary	
227	Act amended	191
Division 2	Amendments commencing on assent	
229	Replacement of ss 50 and 50A	192
	50 Preparing and approving final draft water resource plan	192
230	Insertion of new ss 52A and 52B	192
	52A Effect of water resource plan	192
	52B Postponement of expiry of water resource plan up to 20 years	193
231	Amendment of s 62 (Content of draft water use plans)	195
232	Omission of ch 2, pt 3, div 3, sdivs 4-6.	195
233	Amendment of s 106 (Minor or stated amendments of resource operations plan)	195
234	Replacement of ss 107A and 108	195
	107A Authority to interfere with water under resource operations licence	196
	107B Authority to take or interfere with water under distribution operations licence	196
	107C Nomination and approval of entity as distribution operations licence holder	197
	108 Granting resource operations licences and distribution operations licences.	199
235	Amendment of s 108A (Applying for a distribution operations licence other than under a resource operations plan)	200
236	Replacement of s 108B (Additional information may be required)	200
	108B Additional information may be required	200

Contents

237	Amendment of s 111 (Amending a licence for consistency with a plan)	201
238	Amendment of s 111A (Amending a licence under a plan process)	201
239	Amendment of s 112 (Other amendments chief executive may make to licence)	202
240	Amendment of s 113 (Minor, stated or agreed amendments of licence)	203
241	Replacement of ss 114 and 115.	203
	114 Applying for transfer of licence	204
	115 Additional requirements for transfer of distribution operations licence to nominee	204
	115A Additional information may be required	205
242	Replacement of s 117 (Approving application to transfer licence)	206
	117 Approving application to transfer licence	206
243	Amendment of s 118A (Amalgamating licences)	207
244	Amendment of s 119 (Cancelling licence)	207
245	Amendment of s 119A (Procedure for cancelling licence)	208
246	Amendment of s 119B (Cancelling licence no longer required) . .	209
247	Replacement of s 119D (Access for conducting audit reports) . .	210
	119D Access for conducting a relevant audit	210
248	Insertion of new s 121A	210
	121A Converting particular forfeited or surrendered interim water allocations.	211
249	Amendment of s 122A (Chief executive may approve standard supply contracts)	212
250	Amendment of s 132 (Public notice of application to change water allocation)	213
251	Amendment of s 181 (Public notice of application to amend interim resource operations licence)	213
252	Amendment of s 196 (Forfeiting an interim water allocation) . . .	214
253	Amendment of s 197 (Surrendering an interim water allocation) .	214
254	Insertion of new s 197A	215
	197A Dealing with forfeited or surrendered interim water allocation managed under interim resource operations licence	215
255	Amendment of s 203 (Definitions for pt 6)	217
256	Amendment of s 206 (Applying for a water licence).	217
257	Omission of s 206A (Additional requirements for application by petroleum tenure holder)	217

258	Amendment of s 208 (Public notice of application for water licence)	217
262	Amendment of s 214 (Conditions of water licence)	218
263	Amendment of s 223 (Other transfer of water licence)	218
265	Amendment of s 382 (Public notice and copies of report)	219
266	Amendment of s 386 (Publishing approval and making report available)	219
267	Amendment of s 391 (Minor or agreed amendments of approved report)	219
268	Amendment of s 393 (Other amendments)	220
269	Amendment of s 552 (Public notice of proposal to establish a water authority)	220
270	Amendment of s 556 (Amending establishment regulation)	220
271	Amendment of s 598 (Composition of board for water authorities)	220
272	Amendment of s 598A (Changing the composition of a board)	221
273	Omission of s 599 (Composition of board for Gladstone Area Water Board)	221
274	Amendment of s 601 (Chairperson)	221
275	Amendment of s 609 (Removal of board)	221
276	Insertion of new ch 4, pt 7, div 1, sdiv 1 hdg	222
277	Amendment of s 692 (Public notice of proposed amalgamation or dissolution)	222
278	Insertion of new ch 4, pt 7, div 1, sdiv 2 hdg	222
279	Insertion of new s 695A	223
	695A Closed water activity agreement	223
280	Amendment of s 696 (Procedure before authority is dissolved to convert to alternative institutional structures)	224
281	Amendment of s 703 (Continuing legal proceedings)	225
282	Omission of s 810 (Using water contrary to approved land and water management plan)	225
284	Amendment of s 967 (Development under Sustainable Planning Act 2009 relating to taking or interfering with water)	225
285	Amendment of s 1007 (Records to be kept in registries)	226
286	Amendment of s 1014 (Regulation-making power)	226
287	Amendment of s 1162 (Grid customers)	227
288	Insertion of new ch 9, pt 6	227
	Part 6 Transitional and validation provisions for Land, Water and Other Legislation Amendment Act 2013	

Contents

	1236	Continuation of existing water resource plans	227
	1237	Land and water management plans	228
	1238	Changes affecting category 1 water authority boards	229
	1239	Validation relating to Mount Isa Water Board	229
	1240	Removal of particular records from registries	230
	1241	Amendment of subordinate legislation does not affect powers of Governor in Council	230
289		Amendment of sch 4 (Dictionary)	230
Division 3		Amendments commencing by proclamation	
289A		Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement)	233
290		Replacement of s 20 (Authorised taking of, or interference with, water without water entitlement)	234
	Division 1A	Authorised taking of, or interference with, water without water entitlement	
	20	General authorisations	234
	20A	Land owners	235
	20B	Aboriginal and Torres Strait Islander parties	236
	20C	Particular entities	237
291		Amendment of s 26 (Moratorium notices)	239
292		Amendment of s 46 (Content of draft water resource plans)	239
292A		Amendment of ch 2, pt 6, div 2, sdiv 2 (Contents and conditions of water licence)	239
292B		Amendment of s 213 (Contents of water licence)	240
292C		Insertion of new s 213A	240
	213A	Term of water licence	240
292D		Omission of ch 2, pt 7 (Catchment areas)	241
293		Amendment of s 266 (Applying for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)	241
294		Amendment of s 268 (Criteria for deciding application for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)	242
295		Amendment of s 311 (Production of licence to authorised officer)	242
296		Amendment of s 313 (Records of water bores drilled)	243
297		Amendment of s 746 (Power to enter land to monitor compliance)	243
298		Amendment of s 748 (Power to enter land to search for unauthorised activities)	243
299		Amendment of s 814 (Destroying vegetation, excavating or placing fill without permit)	243

300	Amendment of s 816 (Unauthorised water bore activities)	245
300A	Amendment of s 966 (Additional criteria for assessing development applications)	245
301	Replacement of ch 8, pt 2	246
	Part 2 Relationship with Planning Act	
	Division 1 Development applications	
	Subdivision 1 Additional provisions for making development applications	
	966 Applications for the removal of quarry material	246
	967 Applications for levees	247
	Subdivision 2 Additional assessment criteria	
	968 Chief executive as assessing authority or advice agency	247
	969 New or existing levee	248
	970 Other assessment criteria and decision stage unaffected by subdivision	249
	Subdivision 3 Additional provisions for wild river areas	
	971 Interfering with overland flow water in particular areas	249
	972 Operational work	250
	972A Removal of quarry material	250
	Subdivision 4 Miscellaneous	
	972B When an applicant may appeal to Land Court	251
	Division 2 Development permits and development approvals	
	972C Offence to take or interfere with water if development permit required	251
	972D Additional rights for permits for operational work	252
	972E Restriction on development approval for operational work	253
	972F Allocation of quarry material is subject to approval under Planning Act	254
	Division 3 Directions by chief executive	
	Subdivision 1 Direction powers	
	972G Relationship with Planning Act	254
	972H Modification or removal of works	254
	972I Removal of quarry material	255
	972J Modification or removal of levees	255
	Subdivision 2 Effect of directions	

Contents

	972K	Application of sdiv 2	256
	972L	Direction is a compliance notice.	256
	972M	When direction takes effect	256
	972N	Effect on development permit.	257
	972O	Offence to fail to comply with direction	257
302		Amendment of s 1014 (Regulation-making power)	257
303		Insertion of new ch 9, pt 6, div 1, hdg.	257
303A		Insertion of new s 1235	258
	1235	Term of existing water licence	258
304		Insertion of new s 1242	258
	1242	References to section 20 of this Act.	258
305		Insertion of new ch 9, pt 6, divs 2 and 3.	259
	Division 2	Transitional provisions about the destruction of vegetation in a watercourse, lake or spring	
	1243	Definitions for div 2.	259
	1244	Existing applications.	259
	1245	Existing permits	260
	1246	Destruction of vegetation carried out under guidelines	261
	Division 3	Transitional provisions for existing levees	
	1247	Existing levees	262
	1248	References to particular provisions of this Act.	263
306		Amendment of sch 4 (Dictionary).	263
Part 20		Amendment of Water Supply (Safety and Reliability) Act 2008	
307		Act amended	267
308		Amendment of s 12 (Register of service providers).	267
309		Amendment of s 13 (Requirement for responsible entity to give information)	268
310		Amendment of s 20 (Who must apply for registration as a service provider).	268
311		Replacement of ss 21 and 22.	269
	21	Applying for registration as a service provider	269
	22	Registration as a service provider	270
312		Amendment of s 23 (Applying to amend service provider's details of registration).	271
313		Replacement of ss 24 and 25.	272
	Subdivision 3	Transferring registration	

	24	Definitions for sdiv 3	272
	25	Application of sdiv 3	273
	25A	Notice of transfer	274
	25B	Registering new service provider for transferred service 274	
	25C	Compliance notice taken to have been given to new service provider	277
314		Amendment of s 26 (Notice of intention to stop operating as a service provider)	278
315		Replacement of s 27 (Cancellation of registration)	279
	27	Cancellation of registration if service provider stops supplying service	279
316		Amendment of s 28 (Applying for cancellation of registration as service provider)	280
317		Insertion of new ch 2, pt 3, div 1, sdiv 5, hdg	281
318		Amendment of s 30 (Reviewing and changing service provider registration details)	281
319		Insertion of new ss 30 and 30A	281
	30	Operation of infrastructure by prescribed related entity	281
	30A	Ownership and operation of service provider's infrastructure that is part of land	282
320		Amendment of s 31 (Definition for div 2)	282
321		Amendment of s 49 (Liability of service providers for negligence)	283
322		Amendment of s 71 (Preparing strategic asset management plan)	283
323		Amendment of s 74 (Approving strategic asset management plan)	283
324		Amendment of s 75 (Refusing to approve strategic asset management plan)	284
325		Amendment of s 76 (Changing strategic asset management plan)	284
326		Amendment of s 80 (Preparing system leakage management plan)	285
327		Amendment of s 87 (Approving system leakage management plan)	285
328		Amendment of s 88 (Refusing to approve system leakage management plan)	285
329		Replacement of s 89 (Regulator may seek further information) . .	286
	89	Additional information may be required	286
330		Amendment of s 90 (Changing system leakage management plan)	286
331		Amendment of s 95 (Preparing drinking water quality management plan)	287
332		Amendment of s 96 (Additional information may be required) . . .	288

Contents

333	Amendment of s 100 (Amendment of drinking water quality management plan—application)	288
334	Amendment of s 101 (Amendment of drinking water quality management plan—requirement of regulator)	288
335	Amendment of s 107 (Changing plans following review)	289
336	Amendment of s 112 (Access for conducting audit reports)	289
337	Amendment of s 115 (Preparing customer service standards)	290
338	Amendment of s 119 (Revising customer service standard)	290
339	Amendment of s 120 (Reviewing customer service standard)	290
340	Amendment of s 123 (Preparing drought management plans)	290
341	Amendment of s 129 (Changing a drought management plan)	291
342	Amendment of s 142 (Contents of annual report)	291
343	Amendment of s 190 (Supplying unauthorised services)	291
344	Amendment of s 201 (Preparing particular plans)	292
345	Amendment of s 250 (Application for exemption)	292
346	Amendment of s 274 (Public reporting requirement)	292
347	Amendment of s 301 (Making declaration)	292
348	Amendment of s 530 (Governor in Council may appoint administrator to operate infrastructure)	293
349	Amendment of s 633 (Application of particular provisions—other schemes)	293
350	Insertion of new ch 10, pt 6	293
	Part 6 Transitional provisions for Land, Water and Other Legislation Amendment Act 2013	
	Division 1 Transitional provisions relating to incoming and outgoing service providers	
652	Definitions for div 1	294
653	Application of div 1	294
654	Continuation of strategic asset management plan	295
655	Continuation of exemption from system leakage management plan	295
656	Continuation of exemption from drought management plan	296
657	Preparing relevant annual report	296
658	References to outgoing service provider	297
	Division 2 Other transitional provision	
659	Application of particular provisions—relevant recycled water scheme	297
351	Amendment of sch 3 (Dictionary)	298

Part 21	Minor and consequential amendments	
352	Legislation amended	300
Schedule 1	Minor and consequential amendments	301
Part 1	Amendments commencing on assent	
	Aboriginal Land Act 1991	301
	Acquisition of Land Act 1967	305
	Foreign Ownership of Land Register Act 1988.	306
	Geothermal Energy Act 2010.	306
	Greenhouse Gas Storage Act 2009.	307
	Land Act 1994	307
	Land Title Act 1994	313
	Land Valuation Act 2010	315
	Mineral Resources Act 1989	316
	Petroleum Act 1923	316
	Petroleum and Gas (Production and Safety) Act 2004.	316
	Queensland Reconstruction Authority Act 2011.	317
	River Improvement Trust Act 1940	317
	South-East Queensland Water (Distribution and Retail Restructuring) Act 2009	319
	Survey and Mapping Infrastructure Act 2003.	319
	Sustainable Planning Act 2009	320
	Torres Strait Islander Land Act 1991	320
	Transport Planning and Coordination Act 1994	322
	Water Act 2000.	322
	Water Regulation 2002.	324
	Water Supply (Safety and Reliability) Act 2008	324
Part 2	Amendments commencing by proclamation	
	Petroleum Act 1923	325
	Petroleum and Gas (Production and Safety) Act 2004.	326
	Sustainable Planning Regulation 2009.	326
	Vegetation Management Act 1999	327
	Water Act 2000.	328
	Water Regulation 2002.	332
	Water Resource (Baffle Creek Basin) Plan 2010	332
	Water Resource (Barron) Plan 2002	332
	Water Resource (Border Rivers) Plan 2003.	332

Contents

Water Resource (Burdekin Basin) Plan 2007	333
Water Resource (Calliope River Basin) Plan 2006	333
Water Resource (Condamine and Balonne) Plan 2004	333
Water Resource (Cooper Creek) Plan 2011	334
Water Resource (Fitzroy Basin) Plan 2011	334
Water Resource (Georgina and Diamantina) Plan 2004	334
Water Resource (Great Artesian Basin) Plan 2006	335
Water Resource (Gulf) Plan 2007	335
Water Resource (Mary Basin) Plan 2006	335
Water Resource (Mitchell) Plan 2007	335
Water Resource (Moonie) Plan 2003	336
Water Resource (Moreton) Plan 2007	336
Water Resource (Pioneer Valley) Plan 2002	336
Water Resource (Whitsunday) Plan 2010	337
Water Resource (Warrego, Paroo, Bulloo and Nebine) Plan 2003	337
Water Regulation 2002	337



Queensland

Land, Water and Other Legislation Amendment Act 2013

Act No. 23 of 2013

An Act to amend the Aboriginal Land Act 1991, the Acquisition of Land Act 1967, the Cape York Peninsula Heritage Act 2007, the City of Brisbane Act 2010, the Foreign Ownership of Land Register Act 1988, the Land Act 1994, the Land Title Act 1994, the Land Valuation Act 2010, the Local Government Act 2009, the Petroleum Act 1923, the Petroleum and Gas (Production and Safety) Act 2004, the River Improvement Trust Act 1940, the South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, the Sustainable Planning Act 2009, the Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012, the Sustainable Planning Regulation 2009, the Torres Strait Islander Land Act 1991, the Vegetation Management Act 1999, the Water Act 2000 and the Water Supply (Safety and Reliability) Act 2008 for particular purposes, and to make consequential or minor amendments of the other legislation as stated in schedule 1 for purposes related to those particular purposes

[Assented to 14 May 2013]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Land, Water and Other Legislation Amendment Act 2013*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) parts 5, 10 and 18;
- (b) sections 93 and 118;
- (c) division 3 of parts 9, 11, 12, 13 and 19;
- (d) schedule 1, part 2.

Part 2 Amendment of Aboriginal Land Act 1991

3 Act amended

This part amends the *Aboriginal Land Act 1991*.

Note—

See also the amendments in schedule 1.

4 Amendment of s 11 (DOGIT land)

- (1) Section 11(2), from ‘road if the land’—

omit, insert—

road.

- (2) Section 11(4), from ‘if the land’—

omit, insert—

if the land has, since the enactment day, become a road.

5 Amendment of s 12 (Aboriginal reserve land)

Section 12—

insert—

- (3) Further, Aboriginal reserve land includes land within the external boundaries of land mentioned in subsection (1)(a) if the land has, since the enactment day, ceased to be a road.
- (4) Aboriginal reserve land does not include land within the external boundaries of land mentioned in subsection (1)(a) if the land has, since the enactment day, become a road.

6 Amendment of s 45 (Existing interests)

- (1) Section 45(2)—

insert—

- (d) a lease, if it is a sublease of the Aurukun Shire lease or a sublease of the Mornington Shire lease;

- (2) Section 45(7)—

insert—

Aurukun Shire lease means the lease mentioned in section 48(1) granted to the Aurukun Shire Council.

[s 7]

Mornington Shire lease means the lease mentioned in section 48(1) granted to the Mornington Shire Council.

7 Replacement of s 47 (Cancellation of deed of grant in trust)

Section 47—

omit, insert—

47 Cancellation of deed of grant in trust

- (1) This section applies if a deed of grant (the *new deed*) over all or part of the land comprised in a deed of grant in trust takes effect under section 44.
- (2) The deed of grant in trust is cancelled to the extent of the new deed.

8 Amendment of s 48 (Cancellation of leases over Aurukun and Mornington Shire lease lands)

- (1) Section 48(1), ‘, to the extent of the deed of grant, by operation of this section’—

omit, insert—

to the extent of the deed of grant

- (2) Section 48—

insert—

- (3) Despite the cancellation of a lease under this section, a lease in the form of a sublease, as mentioned in section 45(2)(d), continues in force as a lease under section 45, with the trustee of the Aboriginal land as the lessor.

9 Amendment of s 177 (Claimable land recommended for grant taken to be transferable land)

Section 177(1)—

insert—

(h) lot 215 on plan NPW46.

10 Amendment of s 250 (Minister may appoint member)

(1) Section 250(1)(a)—

omit.

(2) Section 250(1)(b) and (c)—

renumber as section 250(1)(a) and (b).

11 Insertion of new s 250A

Part 20, division 2, subdivision 1—

insert—

250A Land trust may appoint member

- (1) A land trust may, by resolution, appoint a person to be a member of the land trust.
- (2) A land trust can not appoint a person under subsection (1)—
 - (a) without the person's consent; or
 - (b) if the person has been removed as a member of any land trust by the Minister under this division.
- (3) A person appointed as a member of a land trust under this section becomes a member on the later of the following—
 - (a) the day the resolution appointing the person as a member is made;
 - (b) any later day stated in the resolution.
- (4) A land trust must record its decision to appoint a person as a member of the land trust in the minutes of the meeting at which the person was appointed.

[s 12]

12 Replacement of pt 20, div 2, sdiv 2, hdg (Removal or suspension of members)

Part 20, division 2, subdivision 2, heading—

omit, insert—

Subdivision 2 Grounds for removal or suspension of members

13 Amendment of s 251 (Grounds for removal or suspension of member)

(1) Section 251(c), ‘fraudulent or improper way’—

omit, insert—

way that is fraudulent, improper or contrary to the best interests of the land trust

(2) Section 251(d) and (e)—

omit.

(3) Section 251—

insert—

(2) Also, it is a ground for the Minister to remove or suspend a member that, because of any circumstances affecting the operation of the land trust—

(a) the land trust can not remove or suspend a member and a majority of members of the land trust have asked the Minister in writing to remove or suspend the member; and

(b) a ground mentioned in subsection (1)(a), (b) or (c) exists for the member.

Example of circumstances affecting the operation of a land trust—

A land trust can not form a quorum for a general meeting of the land trust to remove or suspend a member.

14 Amendment of s 252 (Show cause notice)

Section 252(3)—

insert—

- (f) that, if the member is removed as a member of the land trust, the member is also removed as a member of any other land trust.

15 Amendment of s 255 (Removing or suspending member)

Section 255(7)—

omit.

16 Insertion of new s 255A

After section 255—

insert—

255A Effect of removing member on other land trust membership

- (1) This section applies if the Minister removes a member from a land trust under section 255(2) and the member is also a member of another land trust.
- (2) The member is also removed as a member of the other land trust.

17 Replacement of s 256 (Immediate removal or suspension of member)

Section 256—

omit, insert—

256 Immediate suspension of member

- (1) The Minister may suspend a member of a land trust immediately if the Minister believes—

[s 17]

- (a) either—
 - (i) a ground exists to remove or suspend the member; or
 - (ii) the member is a member of the executive committee of the land trust and, in performing the member's functions as a member of the committee, is likely to contravene this Act; and
 - (b) it is necessary to suspend the member immediately because there is an immediate risk to the proper operation of the land trust or proper dealing with trust property.
- (2) However, the Minister may immediately suspend the member only if the Minister also gives the member and the land trust a show cause notice for action to remove or suspend the member under this subdivision.
- (3) If the Minister decides to immediately suspend the member, the Minister must, when the Minister gives the show cause notice—
- (a) give the member an information notice about the decision; and
 - (b) give the land trust a copy of the information notice.
- (4) The suspension—
- (a) operates immediately the member is given the information notice; and
 - (b) if the member is also a member of another land trust—suspends the member as a member of the other land trust; and
 - (c) continues to operate until the earlier of the following happens—

-
- (i) the show cause notice is finally dealt with;
 - (ii) 60 days have passed since the suspension took effect.

18 Replacement of pt 20, div 2, sdiv 3 (Other matters)

Part 20, division 2, subdivision 3—

omit, insert—

Subdivision 4 Removal or suspension of members by land trust

257 Proposed removal or suspension approved by resolution and show cause notice

- (1) A land trust may, by resolution, decide to take action under this subdivision (the *proposed action*) to remove or suspend a member of the land trust because a ground exists for the removal or suspension.
- (2) However, members of the land trust must be given at least 14 days notice of the general meeting of the land trust at which the resolution is intended to be proposed.
- (3) If the land trust makes a decision under subsection (1), the land trust must—
 - (a) refer the matter of the proposed action to the executive committee of the land trust to decide; and
 - (b) give the member a notice (a *show cause notice*).
- (4) The show cause notice must state all of the following—

[s 18]

- (a) details of the resolution mentioned in subsection (1), including the date the resolution was made;
 - (b) the proposed action;
 - (c) the ground for the proposed action;
 - (d) an outline of the facts and circumstances forming the basis for the ground;
 - (e) if the proposed action is suspension of the member—the proposed suspension period;
 - (f) that the member may, within a stated period (the *show cause period*), make written representations to the land trust to show why the proposed action should not be taken.
- (5) The show cause period must end at least 1 month after the show cause notice is given.

257A Representations about show cause notice

- (1) The member may make written representations to the land trust about the show cause notice during the show cause period.
- (2) A copy of any representations made by the member under subsection (1) must be given to each member of the executive committee of the land trust.

257B Land trust decisions about removal or suspension of member

- (1) This section provides for how, by a resolution of the executive committee of the land trust, the land trust decides the action to be taken about a show cause notice given to a member of the land trust.
- (2) The resolution may be made only if the show cause period stated in the show cause notice has ended.
- (3) The executive committee must—

- (a) consider all representations about the show cause notice received under section 257A(1); and
- (b) decide—
 - (i) whether a ground exists to remove or suspend the member; and
 - (ii) if the executive committee decides a ground exists—whether removal or suspension of the member is warranted.
- (4) The land trust must take no further action about the show cause notice if the executive committee decides—
 - (a) no ground exists to remove or suspend the member; or
 - (b) a ground exists but the removal or suspension of the member is not warranted.
- (5) Subsections (6) to (8) apply if the executive committee decides a ground exists to remove or suspend the member and that the removal or suspension of the member is warranted.
- (6) The executive committee may decide to—
 - (a) if the proposed action was to remove the member—remove or suspend the member; or
 - (b) if the proposed action was to suspend the member—suspend the member for not longer than the proposed suspension period.
- (7) If a motion proposing removal or suspension fails to pass by resolution, the executive committee of the land trust may decide to—
 - (a) adjourn the matter of the proposed action; or
 - (b) refer the matter of the proposed action to a general meeting of the land trust to decide; or

[s 18]

- (c) take no further action about the show cause notice.
- (8) A decision to remove or suspend takes effect on the later of the following—
 - (a) the day an information notice about the decision is given to the member under section 257D;
 - (b) any later day stated in the notice.
- (9) The executive committee of the land trust must record its decisions under this section—
 - (a) if a decision was made at a meeting of the executive committee—in the minutes of the meeting at which the decision was made; or
 - (b) otherwise—in writing.

257C Decisions about removal or suspension of member referred to land trust general meeting

- (1) This section applies if the executive committee of a land trust refers, to a general meeting of the land trust, the matter of the action to be taken about a show cause notice given to a member of the land trust.
- (2) The land trust may, by resolution at a general meeting of the land trust, decide the action to be taken about the show cause notice.
- (3) For subsection (2), section 257B applies with a reference to the executive committee of the land trust taken to be a reference to the land trust.
- (4) However, if a motion proposing removal or suspension fails to pass by resolution, the land trust must take no further action about the show cause notice.

257D Action after decision about removal or suspension of member

- (1) This section applies if a decision about a show cause notice given to a member of a land trust is made under section 257B or 257C.
- (2) As soon as practicable after the decision is made, the land trust must give the member notice of the following—
 - (a) if, because of the decision, the land trust is, or is required, to take no further action about the show cause notice—notice that no further action will be taken;
 - (b) if the decision is to remove or suspend the member—an information notice for the decision;
 - (c) if the decision is to adjourn the matter of the removal or suspension of the member—notice of the decision to adjourn the matter;
 - (d) if the decision is to refer the matter of the removal or suspension of a member of the land trust to a general meeting of the land trust—notice of the decision to refer the matter and of the day and time of the general meeting of the land trust at which the matter will be considered.

257E Immediate suspension of member

- (1) A land trust may, by a resolution of the executive committee of the land trust, suspend a member of a land trust immediately if the executive committee decides—
 - (a) either—
 - (i) a ground exists to remove or suspend the member; or

[s 18]

- (ii) the member is a member of the executive committee and, in performing the member's functions as a member of the executive committee, is likely to contravene this Act; and
 - (b) it is necessary to suspend the member immediately because there is an immediate risk to the proper operation of the land trust or proper dealing with trust property.
- (2) If the executive committee decides to immediately suspend the member, it must—
- (a) give the member an information notice about the decision; and
 - (b) ensure a motion proposing disciplinary action be taken against the member is considered at a general meeting of the land trust within 60 days after the giving of the information notice.
- (3) The suspension—
- (a) operates immediately the information notice is given; and
 - (b) continues to operate until the earliest of the following happens—
 - (i) a motion proposing disciplinary action be taken against the member fails to pass by resolution at a general meeting of the land trust;
 - (ii) 60 days have passed since the giving of the information notice and the member has not been given a show cause notice for proposed disciplinary action against the member;
 - (iii) a show cause notice for proposed disciplinary action against the member is finally dealt with;

(iv) 60 days have passed since the suspension took effect.

(4) In this section—

disciplinary action, against a member of a land trust, means action to remove or suspend the member under this subdivision.

257F Limitation on land trust's power about suspension of member

A land trust can not end the suspension of a person from membership of the land trust if the suspension is imposed by the Minister under this division.

Subdivision 5 Information about appointment, removal or resignation of members

257G Information about appointment, removal or resignation of members

- (1) This section applies to a land trust if—
 - (a) the land trust appoints a person as a member of the land trust or removes a member from the land trust; or
 - (b) a member of the land trust resigns.
- (2) As soon as practicable after the appointment, removal or resignation has effect, the land trust must give the chief executive notice of the appointment, removal or resignation.

19 Insertion of new s 265A

After section 265—

insert—

[s 20]

265A Resolution of executive committee without meeting

A resolution of the executive committee of a land trust is validly made by the committee, even if it is not passed at a meeting of the committee, if—

- (a) notice of the proposed resolution is given, under procedures approved by the committee, to all members of the committee entitled to vote on the resolution (the *voting members*); and
- (b) a majority of the voting members give written agreement to the resolution.

20 Insertion of new pt 25, div 4

After section 305—

insert—

Division 4 Transitional provision for Land, Water and Other Legislation Amendment Act 2013

306 Continuation of Mornington Shire subleases

- (1) This section applies to a lease that, immediately before the cancellation of the Mornington Shire lease under section 48(1), was a sublease of the Mornington Shire lease.

Note—

The Mornington Shire lease was cancelled under section 48(1) on 7 December 2012 when deeds of grant for all the Mornington Shire lease land took effect under section 44.

- (2) From the cancellation, the sublease is taken to have been, and is, continued in force as a lease

under section 45 (as amended) with the trustee of the Aboriginal land as the lessor.

(3) In this section—

commencement means the commencement of the *Land, Water and Other Legislation Amendment Act 2013*, section 6.

Mornington Shire lease see section 45(7).

section 45 (as amended) means section 45, as in force immediately after the commencement.

21 Amendment of sch 1 (Dictionary)

(1) Schedule 1, definitions *proposed action*, *show cause notice* and *show cause period*—

omit.

(2) Schedule 1—

insert—

information notice, about a decision, means a notice stating all of the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may appeal to the Land Court against the decision within 28 days after receiving the notice;
- (d) how the person may appeal.

notice means a written notice.

proposed action—

- (a) for a provision about action to be taken by the Minister under part 20, division 2, subdivision 3, see section 252(3)(a); or

[s 22]

- (b) for a provision about action to be taken by a land trust under part 20, division 2, subdivision 4, see section 257(1).

show cause notice—

- (a) for a notice given by the Minister, see section 252(2); or
- (b) for a notice given by a land trust, see section 257(3).

show cause period—

- (a) for a provision about a show cause notice given by the Minister, see section 252(3)(e); or
- (b) for a provision about a show cause notice given by a land trust, see section 257(4)(f).

Part 3 **Amendment of Acquisition of Land Act 1967**

22 Act amended

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

Note—

See also the amendments in schedule 1.

23 Amendment of s 2 (Definitions)

- (1) Section 2, definition *gazette resumption notice—*
omit.
- (2) Section 2—
insert—

affected person, for land the subject of a resumption agreement, see section 15(2).

gazette resumption notice means a gazette notice mentioned in section 9(6) or (7), 15C(5) or 15D(1).

gazetting authority, for a gazette resumption notice, means—

- (a) if the gazette resumption notice was made by the Governor in Council—the relevant Minister to whom the application was made under section 9(1) or 15C(1) for the land, the subject of the gazette resumption notice, to be taken; or
- (b) if the gazette resumption notice was made by a relevant Minister under section 9(7)—the relevant Minister; or
- (c) if the gazette resumption notice was made by a constructing authority under section 15D(1)—the constructing authority.

multi-parcel purpose see section 3(1).

objection period, for a notice of intention to resume, means the period—

- (a) starting when the notice is served on the person to whom it is directed; and
- (b) ending on the day specified in the notice as the day by which an objection to the taking of the land may be made.

relevant Minister means—

- (a) for land to be taken for a purpose of the *State Development and Public Works Organisation Act 1971*, the State Development Minister; and

[s 24]

- (b) for land to be taken for a purpose of the *Transport Infrastructure Act 1994*, the Minister administering that Act; and
- (c) if the Governor in Council has, by gazette notice, declared land to be taken for a purpose of another Act—the Minister administering the other Act; and
- (d) otherwise—the Minister administering this Act.

resumption agreement see section 15(1).

State Development Minister means the Minister administering the *State Development and Public Works Organisation Act 1971*.

- (3) Section 2, definitions—

relocate to schedule 2 as inserted under this Act.

- (4) Section 2, ‘In this Act—’—

omit, insert—

The dictionary in schedule 2 defines particular words used in this Act.

24 Insertion of new ss 3 and 4

Part 1—

insert—

3 Meaning of *multi-parcel purpose*

- (1) Land is taken under this Act for a ***multi-parcel purpose*** if, to carry out the particular purpose for which the land is taken, it is necessary to take, under this Act, more than 1 parcel of land.

Examples of multi-parcel purposes—

roads and railways for which it is necessary to take, under this Act, more than 1 parcel of land

- (2) For subsection (1), it does not matter whether—

-
- (a) the parcels of land are owned by the same person or different persons; or
 - (b) the same person or different persons are entitled to claim compensation under this Act for the taking of the parcels of land.
- (3) In this section—
- parcel***, of land, means—
- (a) a separate lot or parcel in a plan of survey registered, or deposited for registration, in the land registry or given to the chief executive (surveys); or
 - (b) an easement; or
 - (c) other land that is described in a way that is sufficient to substantially identify the land.

4 Relationship with other Acts

- (1) This section applies if another Act provides for land to be taken under this Act, even though this Act would not otherwise apply to the land.

Example—

The *Native Title (Queensland) Act 1993* provides for native title rights and interests relating to land, for example, unallocated State land under the *Land Act 1994*, to be acquired under this Act even though this Act would not otherwise apply to unallocated State land.

- (2) Despite the other Act, sections 9(7) and 15D do not apply to the taking of land if the land includes Aboriginal or Torres Strait interests.
- (3) For subsection (2), land includes Aboriginal or Torres Strait Islander interests if—
- (a) native title rights and interests exist for the land; or
 - (b) the land is Aboriginal land or transferable land under the *Aboriginal Land Act 1991*; or

[s 25]

- (c) the land is Torres Strait Islander land or transferable land under the *Torres Strait Islander Land Act 1991*.

25 Amendment of s 9 (Ways in which land is to be taken)

- (1) Section 9(1)—

omit.

- (2) Section 9, ‘Minister’—

omit, insert—

relevant Minister

- (3) Section 9—

insert—

- (7A) Without limiting subsection (6), the relevant Minister may, by gazette notice, declare that the land particularised in the notice is taken for the purpose mentioned in the notice if—

- (a) the objection period for the notice of intention to resume the land has ended and no objections were received in response to the notice; and
- (b) if the land is being taken for a multi-parcel purpose—every other parcel of land required to be taken to carry out the multi-parcel purpose—
 - (i) has been taken under this Act; or
 - (ii) is the subject of a resumption agreement entered into by the constructing authority; or
 - (iii) is the subject of a notice of intention to resume for which the objection period has ended and no objections were received.

- (4) Section 9(2) to (8)—

renumber as section 9(1) to (8).

26 Amendment of s 11 (Amending of gazette resumption notice)

(1) Section 11(1) and (1A)—

omit, insert—

(1) Section 24AA of the *Acts Interpretation Act 1954* applies to the amendment of a gazette resumption notice.

Notes—

1 *Acts Interpretation Act 1954*, section 24AA (Power to make instrument or decision includes power to amend or appeal)

2 See section 17 for the power to revoke a gazette resumption notice.

(1A) However, to the extent the power to amend the gazette resumption notice is exercised to correctly describe the land taken by the notice or to correct another error, the power is not subject to sections 7 to 9 or division 3.

(2) Section 11(1B), from ‘An amending’ to ‘only if’—

omit, insert—

Also, a gazetting authority may, by gazette notice, amend a gazette resumption notice made by the Governor in Council to change the description or area of land taken under the gazette resumption notice, but only if

(3) Section 11(2), (3), (5) and (6)—

omit.

(4) Section 11(4)(a), ‘an amending’—

omit, insert—

amendment of the

(5) Section 11(4)(b), ‘amending’—

[s 27]

omit, insert—

amended

(6) Section 11(1A) to (4)—

renumber as section 11(2) to (4).

27 Amendment of s 12 (Effect of gazette resumption notice)

Section 12(6)—

omit, insert—

- (6) Subject to section 11, publication of a gazette resumption notice is evidence that the following provisions have been complied with—
- (a) for land taken under division 3 in accordance with a resumption agreement—that division;
 - (b) otherwise—sections 7, 8 and 9.

28 Replacement of s 15 (Taking by agreement)

Section 15—

omit, insert—

Division 3 Taking by agreement

Subdivision 1 Resumption agreements

15 Meaning of *resumption agreement*

- (1) A *resumption agreement* is an agreement, complying with subsection (3), for a constructing authority to take land under this Act entered into by the authority and 1 or more of the affected persons for the land.

- (2) An *affected person*, for land the subject of a resumption agreement, is each person who, to the constructing authority's knowledge—
 - (a) will be entitled to claim compensation under this Act in respect of the taking of the land; or
 - (b) is a mortgagee of the land.
- (3) A resumption agreement must—
 - (a) be written; and
 - (b) be signed by each affected person who is a party to the agreement; and
 - (c) state—
 - (i) the particular purpose for which the land to be taken is to be taken; and
 - (ii) a description of the land in the way mentioned in section 7(3)(b); and
 - (iii) if the land is an easement—the rights and obligations to be conferred and imposed by the easement.
- (4) A resumption agreement may, in relation to the compensation for the taking of the land to be taken, for each affected person provide—
 - (a) for the compensation to the person; or
 - (b) that the amount of the compensation is to be fixed under part 4.
- (5) For subsection (4)(a), the compensation may include the benefit of an easement or another interest in land granted by the constructing authority over any land under the authority's control.

Subdivision 2 Process for taking

15A Application of sdiv 2

This subdivision applies if a constructing authority has entered into a resumption agreement for particular land.

15B Limit on taking under sdiv 2

The land may be taken under this subdivision only if, for every affected person for the land—

- (a) the person—
 - (i) is a party to the resumption agreement; or
 - (ii) is a party to another resumption agreement for a particular interest in the land; or
 - (iii) has given written consent to the land being taken in accordance with the resumption agreement; or
- (b) the person's interest in the land—
 - (i) has been taken under this Act; or
 - (ii) is taken under section 9 immediately before, or when, the land is taken under this subdivision.

15C Taking by Governor in Council

- (1) The constructing authority may apply to the relevant Minister for the land to be taken under this section.
- (2) The application must be—
 - (a) made within 1 year after the date of the resumption agreement; and

- (b) accompanied by—
 - (i) a copy of the resumption agreement;
and
 - (ii) if the land is not identified in the resumption agreement in the way mentioned in section 7(3)(b)(i)—a copy of a plan of survey of the land certified by a cadastral surveyor as being accurate or a plan that is sufficient to substantially identify the land.
- (3) The relevant Minister may, by written notice, require the constructing authority to give the relevant Minister stated information relating to the application within a stated reasonable period.
- (4) The relevant Minister must consider the application and any information given under subsection (3) to ensure the land—
 - (a) may be taken; and
 - (b) should be taken for the purpose for which it is proposed to be taken.
- (5) The Governor in Council may, by gazette notice, declare that the land is taken for the purpose stated in the notice.

15D Taking by constructing authority

- (1) The constructing authority may, by gazette notice, declare that the land is taken for the purpose stated in the notice, without making any application under section 15C.
- (2) However, the constructing authority may take the land for a multi-parcel purpose only if every other parcel of land required to be taken to carry out the multi-parcel purpose—

[s 28]

- (a) has been taken under this Act; or
 - (b) is the subject of a resumption agreement entered into by the constructing authority; or
 - (c) is the subject of a notice of intention to resume for which the objection period has ended and no objections have been received.
- (3) Also, the constructing authority may act under subsection (1) to take the land only if the authority is satisfied the land—
- (a) may be taken; and
 - (b) should be taken for the purpose for which it is proposed to be taken.

Subdivision 3 Miscellaneous

15E When taking is effective

A taking under this division is effective on the day the gazette resumption notice is published.

15F Non-application of sections 7 to 9

Sections 7 to 9 do not apply to the taking of land under this division.

15G When constructing authority is taken to have discontinued resumption

If a constructing authority has not made an application under section 15C or taken land under section 15D within 1 year after the date of a resumption agreement to which the authority is a party—

- (a) the authority is taken to have discontinued the resumption of the land the subject of the agreement; and

- (b) section 16 applies as if the authority had served each of the affected persons for the land with a notice of intention to resume.

15H No limit on other acquisition of land

This division does not limit the power of a constructing authority to acquire land in another way, including, for example, by purchasing it.

29 Amendment of s 17 (Revocation before determination of compensation)

- (1) Section 17(1), from ‘Governor in Council, by’—

omit, insert—

Governor in Council or a gazetting authority, by gazette notice (the *revoking gazette notice*), may revoke the gazette resumption notice, in whole or in part.

- (2) Section 17, ‘or amending gazette notice’—

omit.

30 Replacement of s 36B (Minister may delegate certain authorities and functions)

Section 36B—

omit, insert—

36B Delegation by Minister

- (1) The Minister may delegate the Minister’s functions under this Act to an appropriately qualified officer or employee of the department.
- (2) However, the Minister can not delegate the Minister’s functions under section 9 in relation to an application for the taking of land if an objection was received in response to a notice of intention to resume for the land.

[s 31]

(3) A delegation of a function may permit the subdelegation of the function to an appropriately qualified officer or employee of the department.

(4) In this section—

appropriately qualified, for a function, means having the qualifications, experience or standing to perform the function.

Example of standing for an officer of a department—

the officer's classification or level in the department

department, for a delegation of the Minister's functions, means the department administered by the Minister.

functions includes powers.

Minister includes a relevant Minister, other than the State Development Minister.

31 Insertion of new pt 6, div 4

After section 47—

insert—

Division 4 Provisions for Land, Water and Other Legislation Amendment Act 2013

48 Definitions for div 4

In this division—

commencement means the commencement of the provision in which the word appears.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

49 Applications under previous section 9(2)

- (1) This section applies if—
 - (a) before the commencement, a constructing authority applied to the Minister for land to be taken under previous section 9(2); and
 - (b) on the commencement, the land the subject of the application had not been taken under this Act.
- (2) Section 9, as in force immediately after the commencement, applies to the application.
- (3) In this section—
Minister see previous section 9(1).

50 Agreements for taking under previous section 15(1)

- (1) This section applies if—
 - (a) before the commencement, a constructing authority had entered an agreement to take land under previous section 15(1); and
 - (b) on the commencement, the land the subject of the agreement had not been taken under this Act.
- (2) Part 2, division 3 applies to the agreement.

51 Delegations by Minister

- (1) This section applies to a delegation of a Minister made under a previous delegation provision and in effect immediately before the commencement.
- (2) The delegation has effect from the commencement as it were a delegation under section 36B.
- (3) In this section—

[s 32]

previous delegation provision means section 11(5) or 36B as in force immediately before the commencement.

32 Numbering of schedule (Purposes for taking land)

Schedule—

number as schedule 1.

33 Insertion of new sch 2

After schedule 1, as numbered—

insert—

Schedule 2 Dictionary

section 2

Part 4 Amendment of Cape York Peninsula Heritage Act 2007

34 Act amended

This part amends the *Cape York Peninsula Heritage Act 2007*.

35 Amendment of s 7 (Meaning of *Cape York Peninsula Region*)

(1) Section 7(1), from ‘map called’—

omit, insert—

designated map.

(2) Section 7(4)—

insert—

designated map means a map prepared and held by the natural resources department—

- (a) called ‘Map 2 Cape York Peninsula Region’; or
- (b) prescribed under a regulation.

Part 5 Amendment of City of Brisbane Act 2010

36 Act amended

This part amends the *City of Brisbane Act 2010*.

37 Amendment of s 40 (Development processes)

- (1) Section 40(5)(c)—
omit.
- (2) Section 40(5)(d)—
renumber as section 40(5)(c).

Part 6 Amendment of Foreign Ownership of Land Register Act 1988

38 Act amended

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

[s 39]

Note—

See also the amendments in schedule 1.

39 Insertion of new s 2

After section 1—

insert—

2 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

40 Amendment of s 4 (Interpretation)

(1) Section 4(1), definition *foreign natural person*—

omit, insert—

foreign natural person means a person who is not an Australian citizen within the meaning of the *Australian Citizenship Act 2007* (Cwlth) and—

- (a) whose continued presence in Australia is subject to a limitation as to time imposed by law; or
- (b) who is not domiciled in Australia.

(2) Section 4(1), definition *interest in land*, paragraphs (d) and (m)—

omit.

(3) Section 4(1), definition *interest in land*, paragraph (p), ‘(other than an estate or interest referred to in paragraph (i))’—

omit.

(4) Section 4(1), definition *interest in land*, paragraphs (e) to (p)—

renumber as paragraphs (c) to (i).

(5) Section 4(1), definition *interest in land*—

insert—

- (j) a carbon abatement interest under the *Land Act 1994* or *Land Title Act 1994*; or
- (k) a covenant under the *Land Act 1994* or *Land Title Act 1994*; or
- (l) a plantation licence under the *Forestry Act 1959*; or
- (m) a profit a prendre under the *Land Act 1994* or *Land Title Act 1994*.

- (6) Section 4(1), definition *last accounting date*, paragraph (a), after ‘314;’—

insert—

or

- (7) Section 4(1), definitions—

relocate to schedule 1 inserted under this Act.

- (8) Section 4(1), as amended—

omit.

- (9) Section 4(5), ‘(4)’—

omit, insert—

(2)

- (10) Section 4(6), after ‘foreign person’—

insert—

in schedule 1

- (11) Section 4(3) to (6)—

renumber as section 4(1) to (4).

41 Insertion of new sch 1

After section 45—

insert—

Schedule 1 Dictionary

section 2

Part 7 Amendment of Land Act 1994

42 Act amended

This part amends the *Land Act 1994*.

Note—

See also the amendments in schedule 1.

43 Amendment of s 8 (Definitions for pt 4)

Section 8, definitions *lake* and *watercourse—omit*.

44 Amendment of s 13B (Power to declare and deal with former watercourse land)

(1) Section 13B(2)—

omit, insert—

(2) However, before applying, the person must give notice of the person's intention to make the application to the owners of any land that adjoins the watercourse land.

(2) Section 13B(4)—

omit, insert—

(4) However, the chief executive (water) may make the declaration only if satisfied that—

-
- (a) the matters stated in subsection (1)(a) to (d) are true; and
- (b) taking a long-term perspective, there is negligible likelihood that the watercourse land will again become part of a functioning watercourse.
- (3) Section 13B(6), ‘consulted under subsection (4)(a)’—
omit, insert—
given notice of the proposed application under subsection (2)

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

Section 23A(2)—

omit, insert—

- (2) In making a decision for subsection (1), the Minister 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.

Example—

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

46 Amendment of s 24 (Disposal of reservations no longer needed)

Section 24(4)—

omit, insert—

- (4) In making a decision under subsection (3), the Minister must have regard to the purpose of the reservation and the likely future use of the land.

[s 47]

Example—

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

47 Replacement of ss 31C to 31E

Sections 31C, 31D and 31E—

omit, insert—

31C Applying for dedication of reserve

- (1) A person may apply to the Minister for the dedication of a reserve.
- (2) However, before applying, the person must give notice of the person's intention to make the application to—
 - (a) if the person is not the proposed trustee of the reserve—the proposed trustee; and
 - (b) each person with a registered interest in the unallocated State land over which the reserve is proposed to be dedicated.
- (3) The person may also give notice to any other person the first person considers has an interest in the unallocated State land over which the reserve is proposed to be dedicated.

31D Applying for adjustment of reserve

- (1) The trustee of a reserve may apply to the Minister—
 - (a) to change the boundaries of the reserve; or
 - (b) to change the purpose for which the reserve is dedicated.
- (2) However, before applying, the trustee must give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.

-
- (3) The trustee may also give notice to any other person the trustee considers—
- (a) has an interest in the reserve; or
 - (b) would have an interest in the reserve if the boundaries of the reserve or the purpose for which the reserve is dedicated were changed.

48 Amendment of s 31F (Notice of registration of action in relation to reserve)

- (1) Section 31F(1)—

omit, insert—

- (1) The chief executive must give notice of the registration of an action relating to a reserve to each relevant person for the action.

- (2) Section 31F(3), from ‘person given notice’—

omit, insert—

relevant person for the action.

- (3) Section 31F(4)—

insert—

relevant person, for an action in relation to a reserve, means—

- (a) the person or trustee that made an application under section 31C or 31D in relation to the proposed action;
- (b) each person given a notice under section 31C or 31D about the proposed action.

49 Amendment of s 34 (Applying to revoke dedication of reserve)

Section 34—

insert—

[s 50]

- (2) However, before applying, the person must give notice of the person's intention to make the application to—
 - (a) if the person is not the trustee of the reserve—the trustee of the reserve; and
 - (b) each person with a registered interest in the reserve.
- (3) The person may also give notice to any other person the first person considers has an interest in the reserve.

50 Amendment of s 34E (Notice of revocation)

- (1) Section 34E(1)—

omit, insert—

- (1) The chief executive must give notice of the revocation of the dedication of a reserve to the person who applied for the revocation and each person given notice about the proposed revocation under section 34 (either a *relevant person*).

- (2) Section 34E(3), from 'each person'—

omit, insert—

each relevant person.

51 Amendment of s 34I (Applying for deed of grant)

Section 34I—

insert—

- (3) However, before applying, the trustee must give notice of the trustee's intention to make the application to each person with a registered interest in the reserve.

- (4) The trustee may also give notice to any other person the trustee considers has an interest in the reserve.

52 Amendment of s 34N (Notice of registration of deed of grant)

- (1) Section 34N(1)—

omit, insert—

- (1) The chief executive must give notice of the registration of the deed of grant over an operational reserve to the trustee who applied for the issue of the deed of grant and each person given notice about the proposed issue under section 34I (either a *relevant person*).

- (2) Section 34N(3), from ‘each person’—

omit, insert—

each relevant person.

53 Amendment of s 38A (Applying for additional community purpose, amalgamation or cancellation)

- (1) Section 38A(1), after ‘trustee’—

insert—

(the *applicant*)

- (2) Section 38A(2), after ‘person’—

insert—

(also the *applicant*)

- (3) Section 38A—

insert—

- (3) However, before applying under this section, the applicant must give notice of the applicant’s intention to apply to each of the following—

[s 54]

- (a) the trustee of the deed of grant in trust, other than the applicant;
 - (b) each person with a registered interest in the trust land.
- (4) The applicant may also give notice to any other person the applicant considers has an interest in the trust land.

54 Amendment of s 38D (Notice of registration of action)

(1) Section 38D(1)—

omit, insert—

- (1) The chief executive must give notice of the registration of an action relating to a deed of grant in trust to the applicant and each person given notice about the proposed action under section 38A (either a *relevant person*).

(2) Section 38D(3), from ‘each person’—

omit, insert—

each relevant person.

55 Amendment of s 55A (Applying to surrender)

Section 55A—

insert—

- (2) However, before applying, the trustee must give notice of the trustee’s intention to apply to each person with a registered interest in the deed of grant in trust.
- (3) The trustee may also give notice to any other person the trustee considers has an interest in the deed of grant in trust.

56 Amendment of s 55E (Notice of surrender)

(1) Section 55E(1)—

omit, insert—

(1) The chief executive must give notice of the surrender of a deed in grant in trust to the trustee and each person given a notice about the proposed surrender under section 55A (either a **relevant person**).

(2) Section 55E(3), from ‘each person’—

omit, insert—

each relevant person.

57 Amendment of s 57 (Trustee leases)

(1) Section 57(2A), from ‘lease (a construction trustee lease)’—

omit, insert—

grant a trustee lease (construction) or a trustee lease (State or statutory body) over all or part of the trust land.

(2) Section 57—

insert—

(2AA) A **trustee lease (construction)** is a lease of trust land to the State for the construction of transport infrastructure and the provision of transport services on the trust land.

(2AB) A **trustee lease (State or statutory body)** is a lease of trust land if all of the following apply—

- (a) the trustee of the trust land is the State or a statutory body;
- (b) a stated mandatory standard terms document forms part of the lease;

[s 58]

- (c) the purpose of the lease is consistent with the purpose for which the trust land was reserved or granted in trust;
 - (d) if a management plan for the trust land is registered under section 48—the lease is consistent with the management plan.
- (3) Section 57(2B) and (3A), ‘construction trustee lease’—
omit, insert—
trustee lease (construction)
- (4) Section 57(4), ‘construction trustee lease’—
omit, insert—
trustee lease (construction) or trustee lease (State or statutory body)
- (5) Section 57(2A) to (6)—
renumber as section 57(3) to (11).

58 Amendment of s 57A (Amending a trustee lease)

- (1) Section 57A—
insert—
 - (1A) However, the Minister’s approval is not required if the lease is—
 - (a) a trustee lease (construction); or
 - (b) a construction trustee sublease; or
 - (c) a trustee lease (State or statutory body); or
 - (d) a sublease of a trustee lease (State or statutory body).
- (2) Section 57A(2), ‘However’—
omit, insert—
Also
- (3) Section 57A(1A) and (2)—

renumber as section 57A(2) and (3).

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

(1) Section 58(1)—

omit, insert—

(1) A trustee lessee may transfer, mortgage or sublease a trustee lease if the trustee lessee first obtains the written approval of the Minister and the trustee to the transaction.

(1A) However, the Minister's approval is not required if—

(a) the trustee has a written authority under section 64; or

Note—

Under section 64, the Minister may give a trustee a standing authority to sublease.

(b) the lease is a trustee lease (State or statutory body).

(2) Section 58(2A), '(2)'—

omit, insert—

(3)

(3) Section 58(2A)(a), 'under a construction trustee lease under section 57(2A)'—

omit, insert—

trustee lease (construction)

(4) Section 58(2A)(a), '57(2A)', second mention—

omit, insert—

57(4)

(5) Section 58(1A) to (7)—

renumber as section 58(2) to (11).

[s 60]

60 Amendment of s 63 (Rent to be charged)

Section 63(4), from ‘is a’—

omit, insert—

is—

- (a) the State; or
- (b) a statutory body prescribed under a regulation.

61 Amendment of s 97A (Definitions for div 2)

Section 97A, definition *temporary road closure application*, ‘section 99(2)’—

omit, insert—

section 99(3)

62 Amendment of s 99 (Application to close road)

(1) Section 99(2) to (6)—

renumber as section 99(3) to (7).

(2) Section 99—

insert—

- (2) However, a public utility provider can not apply for the permanent closure of a road if the provider is a non-core utility provider.

(3) Section 99(5) as renumbered, ‘Subsection (5)’—

omit, insert—

Subsection (6)

(4) Section 99(5) as renumbered, ‘subsection (3)’—

omit, insert—

subsection (4)

63 Amendment of s 115 (Conditions of sale)

Section 115(3)(b), '100ha'—

omit, insert—

1000ha

64 Amendment of s 136 (Conditions of offer and lease)

Section 136(5)(a), '100ha'—

omit, insert—

1000ha

65 Amendment of s 155 (Length of term leases)

Section 155(4)(a), (5)(a) and (6)(a), '100ha'—

omit, insert—

1000ha

66 Amendment of s 155AA (Application of division 1B)

Section 155AA(1)(b), '100ha'—

omit, insert—

1000ha

67 Amendment of s 158 (Application for new lease)

(1) Section 158(3)—

omit.

(2) Section 158(4) and (5)—

renumber as section 158(3) and (4).

68 Amendment of s 159 (General provisions for deciding application)

(1) Section 159(1)(k) and (l)—

[s 69]

omit.

(2) Section 159(1)(m) to (o)—
renumber as section 159(1)(k) and (m).

(3) Section 159(2) and (3)—
omit.

(4) Section 159(4) and (5)—
renumber as section 159(2) and (3).

69 Amendment of s 160A (Land management agreement condition for particular offers)

Section 160A(1)(c), ‘100ha’—

omit, insert—

1000ha

70 Amendment of s 162A (Conditions imposed on particular new leases)

Section 162A(1)(b), ‘100ha’—

omit, insert—

1000ha

71 Amendment of s 164 (Short term extension)

Section 164, ‘1 year’—

omit, insert—

2 years

72 Amendment of s 166 (Application to convert lease)

(1) Section 166(1), ‘(4)’—

omit, insert—

(3)

-
- (2) Section 166(4)—
omit.
- (3) Section 166(5) and (6)—
renumber as section 166(4) and (5).

73 Amendment of s 167 (Provisions for deciding application)

- (1) Section 167(1)(k) and (l)—
omit.
- (2) Section 167(1)(m) to (o)—
renumber as section 167(1)(k) to (m).
- (3) Section 167(7), ‘(1)(m)’—
omit, insert—
(1)(k)
- (4) Section 167(4)—
omit.
- (5) Section 167(5) to (7)—
renumber as section 167(4) to (6).

74 Amendment of s 168A (Land management agreement for new perpetual lease)

Section 168A(1)—

omit, insert—

- (1) This section applies to the offer under section 168(1) of a new perpetual lease if—
- (a) the lease is for rural leasehold land; and
 - (b) the lease land is 1000ha or more.

75 Amendment of s 173A (Short-term extension)

Section 173A, ‘1 year’—

[s 76]

omit, insert—

2 years

76 Amendment of s 176A (General provisions for deciding application)

Section 176A(5)(b)(ii), ‘100ha’—

omit, insert—

1000ha

77 Amendment of s 176L (General provisions for deciding application)

Section 176L(5)(b)(ii), ‘100ha’—

omit, insert—

1000ha

78 Insertion of new s 176UA

After section 176U—

insert—

176UA Power to require land management agreement in particular circumstances

- (1) This section applies for a term or perpetual lease if—
- (a) the lease is for rural leasehold land; and
 - (b) the lease is not subject to a condition that a land management agreement must be entered into for the lease land; and
 - (c) the Minister is satisfied—
 - (i) the lease land suffers from, or is at risk of, land degradation; or
 - (ii) the lessee is using the lease land in a way that is not fulfilling the lessee’s

duty of care for the land, under section 199.

- (2) The Minister, by notice, may require a land management agreement to be entered into for the lease land.
- (3) If a land management agreement is entered into under this section the lease is subject to a condition that the lessee must comply with the agreement.

79 Amendment of s 177A (Applying for permit)

Section 177A—

insert—

- (2) However, before applying, the person must give notice of the person's intention to apply to the following and to any other entity with a registered interest in the proposed permit land—
 - (a) for a permit for a reserve—the trustee of the reserve;
 - (b) for a permit for a State-controlled road—the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered;
 - (c) for a permit for a road that is under the control of the a local government—the local government.
- (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.

[s 80]

80 Amendment of s 177D (Notice of permit)

Section 177D(1), from ‘about the permit’—

omit, insert—

about the proposed permit under section 177A.

81 Amendment of s 180 (When permit may be cancelled or surrendered)

Section 180(1)(c)—

omit, insert—

- (c) the chief executive, having evaluated the land under section 16, considers the permit is not consistent with the most appropriate tenure and use for the land; or
- (d) for a permit for a reserve—the chief executive considers it appropriate for the trustee of the reserve to manage the reserve free of the permit; or
- (e) for a permit for a State-controlled road—the chief executive considers it appropriate for the chief executive of the department in which the *Transport Infrastructure Act 1994* is administered to control the road free of the permit; or
- (f) for a permit for a road that is under the control of a local government—the chief executive considers it appropriate for the local government to control the road free of the permit; or
- (g) the chief executive considers the cancellation is in the interests of the State, having regard to the public interest.

82 Amendment of s 180A (Applying to cancel or surrender permit)

- (1) Section 180A(2) and (3)—
renumber as section 180A(5) and (6).
- (2) Section 180A—
insert—
- (2) However, before applying, the relevant entity must give notice of the entity's intention to apply to—
 - (a) the permittee; and
 - (b) any other entity with a registered interest in the permit land.
 - (3) Also, a relevant entity for a permit can not apply to cancel the permit if the relevant entity is a non-core utility provider.
 - (4) The relevant entity may also give notice to any other entity the relevant entity considers has an interest in the permit land.

83 Amendment of s 180E (Notice about cancellation or surrender)

- (1) Section 180E(1)—
omit, insert—
- (1) The chief executive must give notice about the cancellation or surrender of a permit to—
 - (a) if the permit is cancelled—
 - (i) the applicant; and
 - (ii) each entity given a notice under section 180A; and
 - (b) if the permit is surrendered—each entity with a registered interest in the permit land.

[s 84]

(2) Section 180E(3), from ‘to each entity’—

omit, insert—

to—

- (a) the permittee; and
- (b) if the application was to cancel the permit—each entity given a notice under section 180A.

84 Insertion of new s 183B

After section 183AA—

insert—

183B No rent payable once offer to convert lease is accepted

- (1) This section applies to a lease if—
 - (a) the lessee has made an application to convert the lease to freehold land under section 166; and
 - (b) the chief executive has made an offer to convert the lease.
- (2) Rent stops being payable for the lease when the offer to convert the lease is accepted.

Note—

Under section 171, an offer to convert a lease has not been accepted until the lessee has fulfilled the conditions of the offer.

85 Amendment of s 188A (Limited rent discount for particular leases)

Section 188A(5), definition *relevant lease*, paragraph (a), ‘100ha’—

omit, insert—

1000ha

86 Omission of ch 5, pt 1A (Future conservation areas)

Chapter 5, part 1A—

omit.

87 Amendment of s 201A (Land management agreement condition)

Section 201A(b), ‘100ha’—

omit, insert—

1000ha

88 Amendment of s 234 (When lease may be forfeited)

Section 234(e)—

omit, insert—

- (e) if the lessee 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 lease land; or

89 Amendment of s 240I (Sale of lease)

Section 240I(2) to (6)—

omit, insert—

- (2) Subject to subsections (3) to (5), the *Local Government Act 2009*, to the extent that Act provides for the sale of land to recover overdue rates and charges relating to the land, applies to the sale of a lease under this subdivision.
- (3) The local government must start the process of selling a lease under this subdivision within the required period stated in the notice under section 240H(2).

[s 90]

- (4) The local government must set a reserve price for the sale of the lease by auction, or a price for the sale of the lease under an agreement, that is at least the total of all charges owing to the State under this Act relating to the lease.
- (5) The local government must use the proceeds of the sale of the lease to pay the State the amount of all charges owing to the State under this Act relating to the lease before using the proceeds to pay any amount owing to the local government.

90 Insertion of new s 284A

After section 284—

insert—

284A Fee required to produce document under subpoena etc.

- (1) This section applies if a fee is payable under section 284(1) for a person to obtain a copy of a document and—
 - (a) a subpoena requires the document to be produced; or
 - (b) a person has applied under the *Evidence Act 1977*, section 134A for the document to be produced for inspection.
- (2) Despite any other law or rule of court, the chief executive is not required to produce, or provide a copy of, the document until the fee mentioned in section 284(1) is paid.
- (3) Subsection (2) does not apply if a department is not required to pay a fee for the document under an agreement mentioned in section 284(6).

91 Amendment of s 290JA (Dedication of public use land in plan)

(1) Section 290JA(2), (3) and (4)—

omit, insert—

(2) On the coming into effect of the plan, without anything further—

(a) if the dedication is for a reserve—the land is dedicated as a reserve for the community purpose or purposes stated in the plan; or

(b) if the dedication is for a road—the road is opened as a road; or

(c) if the dedication is for a non-tidal watercourse or a lake—the plan is taken to be the source material for the land for the *Survey and Mapping Infrastructure Act 2003*, section 99; or

Note—

The *Survey and Mapping Infrastructure Act 2003*, section 99 defines when a boundary of land is a non-tidal boundary (watercourse) or non-tidal boundary (lake). See section 13A of this Act for provisions about the ownership of land on the watercourse side or lake side of one of these boundaries.

(d) otherwise—the land becomes unallocated State land.

(2) Section 290JA(5), '(6)'—

omit, insert—

(4)

(3) Section 290JA(5), '(3)'—

omit, insert—

(2)

(4) Section 290JA(5) and (6)—

[s 92]

renumber as section 290JA(3) and (4).

92 Amendment of s 290JB (Access for public use land)

Section 290JB, after ‘as a road,’—

insert—

non-tidal watercourse or a lake,

93 Amendment of s 322A (Severing joint tenancy by transfer)

Section 322A(4)—

omit, insert—

(4) The chief executive may register the transfer only if the chief executive is satisfied the severing party has given, or made a reasonable attempt to give, each other joint tenant the following—

- (a) if the transfer is an electronic conveyancing document—notice of the severing party’s intention to sever the joint tenancy under subsection (2);
- (b) otherwise—a copy of the transfer.

94 Amendment of s 327B (Applying to surrender)

(1) Section 327B, heading, after ‘surrender’—

insert—

freehold land

(2) Section 327B(2)—

omit.

95 Replacement of s 327C (Notice of proposal to approve surrender of lease)

Section 327C—

omit, insert—

327C Applying to surrender lease

- (1) A lessee may apply to surrender all or part of a lease.
- (2) However, before applying, the lessee must give notice of the lessee's intention to apply to any other person with a registered interest in the lease.
- (3) The lessee may also give notice to any other person the lessee considers has an interest in the lease.

96 Amendment of s 327F (Notice of surrender)

(1) Section 327F(1)—

omit, insert—

- (1) The chief executive must give notice of the surrender of a lease to the lessee and each person given notice about the proposed surrender under section 327 (either a **relevant person**).

(2) Section 327F(3), from 'each person'—

omit, insert—

each relevant person.

97 Amendment of s 332 (Subleases require Minister's approval)

(1) Section 332, heading—

omit, insert—

332 Requirements for subleases

(2) Section 332(1)(a)—

[s 98]

omit, insert—

(a) if—

- (i) the Minister has given written approval to the sublease; or
- (ii) the lessee holds a general authority to sublease; or
- (iii) a stated mandatory standard terms document forms part of the sublease; and

(3) Section 332(2) to (8)—

renumber as section 332(3) to (9).

(4) Section 332—

insert—

- (2) A lessee or sublessee may seek the Minister's approval even though subsection (1)(a)(ii) or (iii) applies to the sublease.

(5) Section 332(3) as renumbered, 'the application'—

omit, insert—

an application

(6) Section 332(6), 'subsection (4)'—

omit, insert—

subsection (5)

(7) Section 332(9), 'subsection (3)(a)'—

omit, insert—

subsection (4)(a)

98 Replacement of s 360D (Notice of proposal to amend lease)

Section 360D—

omit, insert—

360D Notice of intention to apply to amend lease

- (1) This section applies if a lessee or a person acting for the lessee (each *an applicant*) intends to make an application under section 360C to amend the description of a lease.
- (2) Before applying, the applicant must give notice of the applicant's intention to apply to any other person with a registered interest in the lease land.
- (3) The applicant may also give notice to any other person the applicant considers has an interest in the lease.

99 Amendment of s 360F (Notice of registration of amendment of lease)

- (1) Section 360F(1), from 'written notice'—

omit, insert—

the chief executive must give notice to the lessee of the lease and each person given notice about the proposed amendment under section 360D (either a *relevant person*).

- (2) Section 360F(3), from 'each person'—

omit, insert—

each relevant person.

100 Amendment of s 369 (Public utility easements)

Section 369(3), 'paragraph (e)'—

omit, insert—

paragraph (g)

101 Amendment of s 420C (Requirements for making an application)

- (1) Section 420C(1)—

[s 102]

insert—

- (e) if the particular requirements under this Act for making the application include a notification provision—it must be accompanied by a copy of the notice of the applicant’s intention to make the application given to each entity under the notification provision.

- (2) Section 420C(6)—

insert—

notification provisions, for an application, means a requirement or discretion for the person making the application to give notice of the person’s intention to make the application to a particular person or entity.

102 Insertion of new ss 420CA and 420CB

After section 420C—

insert—

420CA Requirements for giving notice of intention to apply

- (1) This section applies if a person is required or permitted to give notice of the person’s intention to make an application (the ***proposed application***) under this Act.
- (2) The notice must—
 - (a) be in the approved form; and
 - (b) state the following—
 - (i) the purpose of the proposed application;
 - (ii) that the entity given the notice may make a submission against the proposal to the person or to the chief executive;

- (iii) that the submission must be in the approved form;
- (iv) the closing day for the submission;
- (v) the place or places where, or the way or ways, the submission must be lodged.

420CB Submissions

- (1) An entity given a notice about a proposed application mentioned in section 420CA may make a submission against the proposed application to—
 - (a) the person who gave the entity the notice; or
 - (b) 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 a place or in a way stated in the notice.
- (3) The person who may or must decide the proposed application must, before deciding the application, consider all submissions received—
 - (a) under this section; or
 - (b) with the application.

103 Insertion of new s 420FA

After section 420F—

insert—

[s 104]

420FA Regard may be had to information and advice

A person who may or must decide an application may, in making the decision, have regard to information and advice obtained in the way the person considers appropriate.

Example—

If the Minister is making a decision under section 23A or 24 about a reservation 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.

104 Amendment of s 481B (Application to cancel or surrender)

- (1) Section 481B(1), after ‘public utility provider’—
insert—
(an *applicant*)
- (2) Section 481B(2), after ‘licensee’—
insert—
(also an *applicant*)
- (3) Section 481B(2)—
renumber as section 481B(3).
- (4) Section 481B—
insert—
 - (2) However, an applicant mentioned in subsection (1) can not apply to cancel all or part of an occupation licence if the applicant is a non-core utility provider.
- (5) Section 481B—
insert—

-
- (4) However, before applying, an applicant must give notice of the applicant's intention to apply to each of the following—
- (a) if the applicant is not the licensee of the occupation licence—the licensee;
 - (b) any other 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.
- (5) The applicant may also give notice to any other person the applicant considers has an interest in the occupation licence.

105 Amendment of s 481G (Notice of cancellation or absolute surrender)

- (1) Section 481G(1)—

omit, insert—

- (1) The chief executive must give notice of a cancellation or absolute surrender of all or part of an occupational licence to the applicant and each person given a notice about the proposed cancellation or surrender under section 481B (either a *relevant person*).

- (2) Section 481G(3), from 'each person'—

omit, insert—

each relevant person.

[s 106]

106 Insertion of new ch 9, pt 1K

After section 521ZC—

insert—

**Part 1K Transitional provisions
for Land, Water and
Other Legislation
Amendment Act 2013**

521ZD Definitions for pt 1K

In this part—

commencement means the commencement of the provision in which the word appears.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

relevant term lease means a term lease to which the following apply—

- (a) the lease—
 - (i) is for rural leasehold land; and
 - (ii) is for a term of 20 years or more;
- (b) the lease land is 100ha or more but less than 1000ha;
- (c) the lease is subject to a land management agreement.

521ZE Cancellation of land management agreements

- (1) This section applies to a relevant term lease in force on the commencement.

- (2) Subject to section 521ZF, the lessee may apply in writing to the Minister for the cancellation of the land management agreement for the lease.
- (3) The Minister may grant the cancellation.
- (4) However, the agreement must not be cancelled if the Minister is satisfied—
 - (a) the lease land suffers from, or is at risk of, land degradation; or
 - (b) the lessee is using the lease land in a way that is not fulfilling the lessee's duty of care for the land, under section 199.
- (5) The cancellation of a land management agreement under this section does not affect the term of the lease.
- (6) If the Minister decides to refuse to grant the cancellation the lessee may appeal against the decision.

521ZF Prohibition on cancellation of particular land management agreements

- (1) This section applies to a relevant term lease in force on the commencement for which an extension of the term is granted under chapter 4, part 3, division 1B, regardless of whether the application for the extension is made before or after the commencement.
- (2) The lessee can not apply for the cancellation, under section 521ZE, of the land management agreement for the lease.

521ZG Particular conditions about land management agreements for relevant term leases

- (1) This section applies to a relevant term lease in force on the commencement that is subject to a condition imposed under section 203(g).
- (2) If, under section 521ZE, the Minister cancels the land management agreement for the lease—
 - (a) the condition is taken to have been cancelled; and
 - (b) the chief executive must amend the leasehold land register to show the condition has been cancelled.
- (3) The amendment of the register may be made despite any other provision of the Act.

521ZH Extension and reduction of relevant term leases

- (1) This section applies to a relevant term lease in force on the commencement, subject to section 521ZE.
- (2) Previous chapter 4, part 3, divisions 1B and 1C continue to apply for the lease.

521ZI Existing term lease applications

- (1) This section applies to an application for a term lease that has been made under previous chapter 4, part 3 but not decided before the commencement.
- (2) Previous chapter 4, part 3 and chapter 5, part 2 continue to apply to the application.
- (3) However, subsection (4) applies if the application is for a lease to which the following apply—
 - (a) the lease—

-
- (i) is for rural leasehold land; and
 - (ii) is for a term of 20 years or more;
 - (b) the lease land is 100ha or more but less than 1000ha.
 - (4) The Minister may, at the applicant's request, decide the application as if chapter 4, part 3 as amended under the amending Act applied to the application.
 - (5) In this section—

amending Act means the *Land, Water and Other Legislation Amendment Act 2013*.

107 Amendment of sch 2 (Original decisions)

- (1) Schedule 2, entry for section 58(3)—

omit, insert—

58(6) refusing a transfer, mortgage or sublease

- (2) Schedule 2—

insert—

521ZE(6) refusal to grant the cancellation of a land management agreement

- (3) Schedule 2, entry for section 332, '332(6)'—

omit, insert—

332(7)

108 Amendment of sch 3 (Requirements for approved agreements)

- (1) Schedule 3, part 1, section 1(c), '100ha'—

omit, insert—

1000ha

[s 109]

- (2) Schedule 3, part 2, section 1(c), ‘100ha’—
omit, insert—
1000ha

109 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *criminal history, environmentally sensitive area, future conservation area, lake, reasonably believe, reasonably suspect* and *watercourse—*

omit.

- (2) Schedule 6—
insert—

construction trustee sublease see section 58(4)(a).

lake has the same meaning as in the Survey and Mapping Infrastructure Act 2003, section 62.

notice means written notice.

non-core utility provider means a person or entity mentioned in this schedule, definition *public utility provider* paragraph (e) or (f).

non-tidal watercourse means a watercourse in which the water that flows is not subject to tidal influence.

trustee lease (construction) see section 57(4).

trustee lease (State or statutory body) see section 57(5).

watercourse has the same meaning as in the Survey and Mapping Infrastructure Act 2003, section 63.

- (3) Schedule 6, definitions *Aboriginal people particularly concerned with land* and *Torres Strait Islanders particularly concerned with land, ‘4’—*

omit, insert—

3

- (4) Schedule 6, definition *appropriate register*, after ‘;’—
insert—
- or
- (5) Schedule 6, definition *public purpose*, paragraph (c)—
omit.
- (6) Schedule 6, definition *public utility provider*, paragraphs (e) and (f)—
renumber as paragraphs (g) and (h).
- (7) Schedule 6, definition *public utility provider*—
insert—
- (e) a person authorised under an Act to provide a particular public utility service;
- Examples for paragraph (e)—*
- a special approval holder under the *Electricity Act 1994* or a service provider for a registered service under the *Water Supply (Safety and Reliability) Act 2008*
- (f) an entity approved by the Minister as suitable to provide infrastructure for use by another entity in the provision of a particular public utility service;
- Example for paragraph (f)—*
- a relevant infrastructure owner as defined under the *Water Supply (Safety and Reliability) Act 2008* whose infrastructure may be used by another entity authorised to supply a water or sewerage service under that Act
- (8) Schedule 6, definition *required particulars*, ‘a future conservation area or’—
omit.
- (9) Schedule 6, definition *required time*, ‘(3)’—
omit, insert—

- (3) Subsection (2) does not apply if a department is not required to pay a fee for the document under an agreement mentioned in section 35(6).

112 Amendment of s 47 (Alienated State land to be registered)

Section 47(1)—

omit, insert—

- (1) As soon as practicable after land is alienated from the State—
- (a) if the deed of grant for the land takes effect on delivery to the grantee—notice that the deed has been delivered to the grantee must be given to the registrar; or

Note—

See the *Aboriginal Land Act 1991*, section 44 and the *Torres Strait Islander Land Act 1991*, section 40 for examples of deeds of grant that take effect on delivery of the deed to the grantee.

- (b) otherwise—the deed of grant for the land must be lodged in the land registry.

113 Amendment of s 50 (Requirements for registration of plan of subdivision)

- (1) Section 50(4) and (5)—

renumber as section 50(5) and (6).

- (2) Section 50—

insert—

- (4) Also, subsection (1)(h) and (i) does not apply to a plan of subdivision that, under a provision of another Act, is a plan that is not required to be approved by the relevant planning body.

[s 114]

114 Amendment of s 51 (Dedication of public use land in plan)

(1) Section 51(1), from ‘other than’ to ‘proprietor’—

omit.

(2) Section 51(2), (3) and (3A)—

omit, insert—

(2) On registration of the plan, without anything further—

(a) if the dedication is for a road—the road is opened for the *Land Act 1994*; or

(b) if the dedication is for a non-tidal watercourse or a lake—the plan is taken to be the source material for the land for the *Survey and Mapping Infrastructure Act 2003*, section 99; or

Note—

The *Survey and Mapping Infrastructure Act 2003*, section 99 defines when a boundary of land is a non-tidal boundary (watercourse) or non-tidal boundary (lake). See the *Land Act 1994*, section 13A for provisions about the ownership of land on the watercourse side or lake side of one of these boundaries.

(c) if the dedication is for an identified community purpose under the *Land Act 1994* and the plan is consented to by the Minister administering the *Land Act 1994*—the lot is dedicated as a reserve for the community purpose; or

(d) otherwise—the lot becomes unallocated State land under the *Land Act 1994*.

(3) Section 51(4), ‘(5)’—

omit, insert—

(4)

- (4) Section 51(4) and (5)—
renumber as section 51(3) and (4).

115 Amendment of s 51A (Access for public use land)

Section 51A, after ‘as a road,’—

insert—

non-tidal watercourse or a lake,

116 Renumbering of s 54 (Division excluding road or watercourse)

Section 54—

renumber as section 53A.

117 Insertion of new pt 4, div 3A

After section 53A, as renumbered—

insert—

**Division 3A Dedication of road by
notice**

54 Dedication of road by notice

- (1) The registered owner of a lot may dedicate the lot as a road for public use by the registration of a dedication notice.
- (2) Part of a lot may not be dedicated as a road for public use under this section.
- (3) A dedication notice must have been approved by the relevant planning body.
- (4) On the day the dedication notice is registered—
 - (a) the dedication of the lot as a road for public use takes effect; and

[s 118]

- (b) the land is opened for public use as a road.
- (5) This section does not apply if the dedication notice is for the land to be dedicated as a road under the *Acquisition of Land Act 1967*, section 12B.

Note—

A dedication notice for land taken under the *Acquisition of Land Act 1967* to be dedicated as a road is registered under section 12B of that Act.

- (6) In this section—
- dedication notice*** means a notice in the approved form requesting the registrar to register a dedication of land as a road.
- relevant planning body*** means—
- (a) if the lot is in a priority development area—MEDQ; or
- (b) otherwise—the local government.

118 Amendment of s 59 (Severing joint tenancy)

Section 59(2)—

omit, insert—

- (2) However, the registrar may register the instrument of transfer only if the registrar is satisfied the registered owner has given, or made a reasonable attempt to give, each other joint tenant the following—
- (a) if the instrument is an electronic conveyancing document—written notice of the registered owner's intention to sever the joint tenancy under subsection (1);
- (b) otherwise—a copy of the instrument.

119 Amendment of s 67 (Amending a lease)

(1) Section 67(1)—

omit.

(2) Section 67—

insert—

(3A) The ***term*** of a registered lease includes a period of possession under the lease because—

- (a) an option to renew in the lease has been exercised, whether or not an instrument of amendment has been registered to extend the term of the lease for the option period; or
- (b) otherwise—an instrument of amendment extending the term of the lease has been registered.

(3B) However, subsection (3)(a) applies to a second or subsequent option to renew in a lease only if, before the end of the option period for the previous option, an instrument of amendment was registered to extend the term of lease for that previous option period.

(3) Section 67—

insert—

(4A) In this section—

option period, for an option to renew in a lease, means the period for which the term of a lease is, or will be, extended by the exercise of the option.

(4) Section 67(2) to (4A)—

renumber as section 62(1) to (6).

120 Amendment of s 81A (Definitions for div 4)

(1) Section 81A, definition *public utility provider*, paragraphs (e) and (f)—

[s 121]

renumber as paragraphs (g) and (h).

(2) Section 81A, definition *public utility provider*—
insert—

(e) a person authorised under an Act to provide a particular public utility service;

Examples for paragraph (e)—

a special approval holder under the *Electricity Act 1994* or a service provider for a registered service under the *Water Supply (Safety and Reliability) Act 2008*

(f) an entity approved by the Minister as suitable to provide infrastructure for use by another entity in the provision of a particular public utility service;

Example for paragraph (f)—

a relevant infrastructure owner as defined under the *Water Supply (Safety and Reliability) Act 2008* whose infrastructure may be used by another entity authorised to supply a water or sewerage service under that Act

121 Amendment of s 82 (Creation of easement by registration)

(1) Section 82(1), after ‘a lot’—

insert—

or part of a lot

(2) Section 82—

insert—

(1A) An easement over a registered lease of a lot may only be created by registering an instrument of easement.

(3) Section 82(2)—

insert—

(c) for a high-density development easement—the purposes under division 4AA for which the easement is created.

(4) Section 82—

insert—

(2A) For subsection (2)(a), the terms of a high-density development easement are set out in division 4AA.

(5) Section 82(2) to (4)—

renumber as section 82(3) to (6).

122 Amendment of s 83 (Registration of easement)

Section 83(1)—

omit, insert—

- (1) An instrument of easement may be registered only if—
- (a) for an easement, other than a high-density development easement, over a part of a lot—a plan of survey designating the easement is registered; and
 - (b) it is signed by—
 - (i) the registered owner of the lot or lessee of the registered lease to be burdened; and
 - (ii) if the easement benefits another lot—the registered owner of the lot; and
 - (iii) if the easement benefits a registered lease—the lessee; and
 - (iv) if the easement benefits non-freehold land—the lessee or other person entitled to the land; and

[s 123]

- (v) if the easement is a public utility easement—the public utility provider.

123 Amendment of s 83A (Registration of plan showing proposed easement)

Section 83A(1), after ‘a proposed easement’—

insert—

, other than a high-density development easement,

124 Amendment of s 84 (Limitation of easements)

Section 84, after ‘An easement’—

insert—

, other than a high-density development easement,

125 Amendment of s 89 (Easements for public utility providers)

Section 89(2)(b), ‘paragraph (e)’—

omit, insert—

paragraph (g)

126 Insertion of new s 90A

After section 90—

insert—

90A When easement over registered lease ends

- (1) A registered easement that burdens a registered lease ends when the lease ends.
- (2) If a registered lease is surrendered in part, to the extent a registered easement burdens the part of the lease that was surrendered, the easement ends.

- (3) The registrar may remove an easement that has ended from the freehold land register.

127 Amendment of s 91 (Amending an easement)

Section 91(1), after ‘registered easement’—

insert—

, other than a high-density development easement,

128 Insertion of new pt 6, div 4AA

Part 6—

insert—

Division 4AA High-density development easements

93 Application of div 4AA

- (1) This division applies if an easement registered under section 82 is a high-density development easement.
- (2) A reference in this division to a lot is a reference to a lot the subject of the easement.

94 Meaning of *high-density development easement*

- (1) A *high-density development easement* is an easement created for 1 or more of the following purposes—
- (a) support;
 - (b) shelter;
 - (c) projections;
 - (d) maintenance;

[s 128]

- (e) roof water drainage.
- (2) A high-density development easement may be created only—
 - (a) over 2 small, adjoining lots; and
 - (b) if a wall of a building situated on 1 lot is—
 - (i) also a wall of a building situated on the other lot and the wall is on the common boundary of the 2 lots; or
 - (ii) constructed on the same foundation as, and adjacent to, a wall of a building situated on the other lot and the foundation is on the common boundary of the 2 lots.
- (3) Each lot to which a high-density development easement relates is benefitted and burdened by the easement to the extent necessary to give effect to the purposes for which the easement is created.
- (4) In this section—
small, for a lot, means the lot has an area of 300m² or less.

95 Easement for support

- (1) This section applies if a high-density development easement is created for support.
- (2) An easement of lateral or subadjacent support exists in favour of 1 lot (the *benefitted lot*) against the other lot (the *burdened lot*) if the burdened lot is capable of supplying lateral or subadjacent support to the benefitted lot.
- (3) An easement of common wall support exists in favour of the benefitted lot against the burdened lot when a building on the burdened lot is

supplying common wall support to a building on the benefitted lot.

- (4) For subsection (3), a building (*building A*) supplies common wall support to another building (*building B*) if a wall (the *common wall*) of building A that is necessary to ensure the general safety and structural integrity of building B—
 - (a) is also a wall of building B; or
 - (b) is constructed on the same foundation as, and adjacent to, a wall of building B.
- (5) An easement under subsection (1) or (2) entitles the owner of the benefitted lot to enter the burdened lot under the easement to maintain or replace any support.
- (6) The owner of the benefitted lot and the owner of the burdened lot are each liable to contribute equally to the cost of maintaining or replacing any support.
- (7) The owner of the burdened lot—
 - (a) must maintain any structures on the burdened lot that provide support; and
 - (b) must insure, to the extent practicable, any structures on the burdened lot that provide support for—
 - (i) the full replacement value of the structure; and
 - (ii) public risk; and
 - (c) must not remove, change or otherwise interfere with any support, other than as required under paragraph (a), without the written consent of the owner of the benefitted lot.

96 Easement for shelter

- (1) This section applies if a high-density development easement is created for shelter.
- (2) An easement exists in favour of 1 lot (the *benefitted lot*) against the other lot (the *burdened lot*) entitling the owner of the benefitted lot to have the lot sheltered by the parts of a building situated on the burdened lot that are necessary to supply the shelter.
- (3) The easement under subsection (2) entitles the owner of the benefitted lot to enter the burdened lot under the easement to maintain or replace the shelter.
- (4) The owner of the burdened lot—
 - (a) must maintain the parts of the building that supply the shelter; and
 - (b) must insure, to the extent practicable, any parts of the building that supply the shelter for—
 - (i) the full replacement value of the structure; and
 - (ii) public risk; and
 - (c) must not remove, change or otherwise interfere with any of the parts of the building that supply the shelter, other than as required under paragraph (a), without the written consent of the owner of the benefitted lot.

96A Easements for projections

- (1) This section applies if a high-density development easement is created for projections.
- (2) An easement exists in favour of 1 lot (the *benefitted lot*) against the other lot (the *burdened*

-
- lot*) to permit parts of a building situated on the benefitted lot, including, for example, eaves, guttering, awnings and window sills, to project over the boundaries of the burdened lot.
- (3) The easement entitles the owner of the benefitted lot to enter the burdened lot to maintain or replace the building parts.
 - (4) The owner of the benefitted lot—
 - (a) is solely liable for the costs of maintaining or replacing the building parts; and
 - (b) must insure, to the extent practicable, the building parts for—
 - (i) their full replacement value; and
 - (ii) public risk.
 - (5) The owner of the burdened lot must not remove, change or otherwise interfere with any projection without the written consent of the owner of the benefitted lot.

96B Easement for maintenance of building close to boundary

- (1) This section applies if a high-density development easement is created for maintenance.
- (2) An easement exists in favour of 1 lot (the *benefitted lot*) against the other lot (the *burdened lot*) entitling the owner of the benefitted lot to enter the burdened lot to carry out maintenance or replacement of a building that is—
 - (a) on the boundary of the benefitted lot; or
 - (b) so close to the boundary of the benefitted lot that maintenance or replacement of the building is not able to be carried out without entering the burdened lot.

96C Easement for roof water drainage

- (1) This section applies if a high-density development easement is created for roof water drainage.
- (2) An easement exists in favour of 1 lot (the *benefitted lot*) against the other lot (the *burdened lot*) to permit a roof water drainage structure that is part of a building situated on the benefitted lot to—
 - (a) project over the boundaries of the burdened lot; or
 - (b) be situated on the burdened lot; or
 - (c) also be part of a building situated on the burdened lot.
- (3) For subsection (2), a *roof water drainage structure* is a structure—
 - (a) used for collecting rainwater from the roof of a building and conveying the rainwater to a drain or the ground, including, for example, guttering, a downpipe, a drainpipe or a box drain; and
 - (b) only to the extent the structure is visible and not concealed underground.
- (4) The easement entitles the owner of the benefitted lot to enter the burdened lot to maintain or replace the roof water drainage structure.
- (5) The owner of the benefitted lot—
 - (a) is solely liable for the costs of maintaining or replacing the roof water drainage structure; and
 - (b) must insure, to the extent practicable, the roof water drainage structure for—
 - (i) its full replacement value; and

- (ii) public risk.
- (6) The owner of the burdened lot must not, without the written consent of the owner of the benefitted lot—
 - (a) remove, change or otherwise interfere with the roof water drainage structure; or
 - (b) obstruct or otherwise interfere with the flow of water through the structure.
- (7) However, the owner of the burdened lot may, without the written consent of the owner of the benefitted lot, interfere with the roof water drainage structure to the extent necessary to ensure water flows freely through the structure, including, for example, by removing from the structure a thing that is obstructing the flow of water.

96D Insurance requirements

- (1) A policy of insurance for the full replacement value of a structure required to be taken out under this division—
 - (a) must cover—
 - (i) damage; and
 - (ii) costs incidental to the reinstatement or replacement of the structure, including the cost of taking away debris and the fees of engineers and other professional advisors; and
 - (b) must provide for the reinstatement of the structure to its condition when new.
- (2) A policy of public risk insurance of a structure required to be taken out under this division must cover amounts for—

[s 128]

- (a) compensation for death, illness and bodily injury; and
 - (b) damage to property.
- (3) In this section—
- damage**, for coverage under insurance required to be put in place under this division, means—
- (a) earthquake, explosion, fire, lightning, storm, tempest and water damage; and
 - (b) glass breakage; and
 - (c) damage from impact, malicious act and riot.

96E Notice of entry

- (1) This section applies if, under this division, the owner of a lot benefitted by a high-density development easement is entitled to enter the lot burdened by the easement to maintain or replace a structure, part of a structure or another thing.
- (2) Before exercising the right of entry, the owner of the benefitted lot must give the owner of the burdened lot reasonable notice in writing of the owner's intention to enter the burdened lot and details of the maintenance or replacement to be carried out.
- (3) However, if the structure or other thing is damaged or destroyed and, in the circumstances, urgent maintenance or replacement is required and it is impractical to give a notice under subsection (2)—
 - (a) the owner of the benefitted lot may exercise the right of entry without giving the notice to carry out the urgent maintenance or replacement; and
 - (b) as soon as practicable after the entry, the owner of the benefitted lot must give the

owner of the burdened lot written notice of the entry and details of the maintenance or replacement carried out.

129 Amendment of s 105 (Lapsing of caveat)

Section 105(2)(b), after ‘written notice’—

insert—

, in the way the registrar requires,

130 Amendment of s 107 (Refusing or compromising application)

(1) Section 107(1)(a), ‘and’—

omit, insert—

or

(2) Section 107(3A), after ‘written notice’—

insert—

, in the way the registrar requires,

131 Amendment of s 112 (Registering beneficiary)

Section 112(2)(b), after ‘the lot’—

insert—

or the interest in the lot

132 Amendment of s 115N (Easements for support)

(1) Section 115N(2) and (3)—

renumber as section 115N(4) and (5).

(2) Section 115N—

insert—

(2) An easement of common wall support exists—

[s 133]

- (a) in favour of a lot (**lot X**) against another lot when a building on the other lot is supplying common wall support to a building on lot X; and
 - (b) in favour of a lot against common property when a building on the common property is supplying common wall support to a building on the boundary of the lot; and
 - (c) in favour of common property against a lot when a building on the lot is supplying common wall support to a building on the boundary of the common property; and
 - (d) in favour of common property against other common property when a building on the other common property is supplying common wall support to a building on the boundary of the common property.
- (3) For subsection (2), a building (**building A**) supplies common wall support to another building (**building B**) if a wall (the **common wall**) of building A is also a wall of building B and the common wall is necessary to ensure the general safety and structural integrity of building A.
- (3) Section 115N(4) and (5) as renumbered, after ‘subsection (1)’—
- insert*—
- or (2)

133 Amendment of s 126 (Lapsing of caveat)

- (1) Section 126(3) and (4)(b), after ‘notify the registrar’—
- insert*—
- , in the way the registrar requires,
- (2) Section 126(6), from ‘if a proceeding’—

omit, insert—

if, before the caveat was lodged—

- (a) a proceeding has been started in a court of competent jurisdiction to establish the interest claimed under the caveat; and
- (b) the proceeding has not been decided, discontinued or withdrawn.

134 Amendment of s 128 (Cancelling a caveat)

Section 128(3)—

omit, insert—

- (3) The registrar may remove a caveat immediately before registering an instrument that has been lodged if the instrument—
 - (a) will, on registration, give full effect to an interest claimed in the caveat; or
 - (b) is an instrument of transfer and the registrar is satisfied section 124(2)(c) applies to allow the registration of the instrument.

135 Amendment of s 133 (Registering power of attorney)

- (1) Section 133(3), ‘certified’—

omit.

- (2) Section 133(3), ‘original’—

omit, insert—

power of attorney

- (3) Section 133—

insert—

- (4) In this section—

[s 136]

power of attorney includes a copy of a power of attorney that has been certified under the *Powers of Attorney Act 1988*, section 14 or 45.

136 Amendment of s 151 (Effect of transferee's notice on caveat)

Section 151, heading, 'transferee's'—

omit, insert—

settlement

137 Amendment of s 154 (Lodging certificate of title)

(1) Section 154, heading—

omit, insert—

154 Returning certificate of title for cancellation

(2) Section 154(2)—

insert—

- (j) an instrument affecting the public utility provider as the registered proprietor of a public utility easement;
- (k) an instrument affecting the registered proprietor of the following interests in land—
 - (i) a registered profit a prendre, if the profit a prendre does not benefit any lot;
 - (ii) a registered carbon abatement interest.

(3) Section 154—

insert—

- (3) For subsection (2)(j) and (k), an instrument affects the registered proprietor of an interest in land if the registration of the instrument would result in—

- (a) a change in the registered proprietor of the interest, including, for example, because the interest has been transferred or a person beneficially entitled under a will to the interest has been registered as proprietor of the interest; or
- (b) a change in the registered proprietor's name.

138 Omission of s 163 (Substitute instrument)

Section 163—

omit.

139 Amendment of sch 1 (Witnesses to instruments)

Schedule 1, entry for execution of instrument in a State, Territory or place outside Australia—

omit, insert—

- at any place in Australia or outside Australia
- a notary public
 - a justice of the peace
 - a commissioner for declarations
 - a lawyer
 - a licenced conveyancer from another State
 - another person approved by the registrar

140 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *lawyer*—

omit.

(2) Schedule 2—

insert—

cane railway easement, for part 6, division 4, see section 81A.

commissioner for declarations see the *Justices of the Peace and Commissioners for Declarations Act 1991*, section 3.

full supply level, for part 6, division 4, see section 81A.

high-density development easement see section 94.

justice of the peace see the *Justices of the Peace and Commissioners for Declarations Act 1991*, section 3.

lake see the Survey and Mapping Infrastructure Act 2003, section 62.

lawyer means an Australian lawyer as defined under the *Legal Profession Act 2007*, section 5(1).

legal practitioner means—

- (a) an Australian legal practitioner as defined under the *Legal Profession Act 2007*, section 6(1); or
- (b) a government legal officer engaged in government work as defined under the *Legal Profession Act 2007*, section 12(1) and (2).

mill owner, for part 6, division 4, see section 81A.

non-tidal watercourse means a watercourse in which the water that flows is not subject to tidal influence.

public thoroughfare easement, for part 6, division 4, see section 81A.

public utility easement, for part 6, division 4, see section 81A.

public utility provider, for part 6, division 4, see section 81A.

watercourse see the *Survey and Mapping Infrastructure Act 2003*, section 63.

(3) Schedule 2, definition *enforcement warrant*, paragraph (a)—
omit, insert—

(a) the *Civil Proceedings Act 2011*, section 90;
or

Part 9 Amendment of Land Valuation Act 2010

Division 1 Preliminary

141 Act amended

This part amends the *Land Valuation Act 2010*.

Note—

See also the amendments in schedule 1.

Division 2 Amendments commencing on assent

142 Amendment of s 74 (Exceptions to annual valuation requirement)

Section 74(3), definition *market survey report*, paragraph (a), ‘in the area’—

omit, insert—

[s 143]

, including sales of land outside the area,

143 Amendment of s 112 (What is a *properly made* objection)

(1) Section 112(1)—

insert—

(aa) it relates to only 1 valuation, unless section 107 applies; and

(2) Section 112(1)(aa) to (d)—

renumber as section 112(1)(b) to (e).

144 Insertion of new s 131A

Chapter 3, part 3, division 4—

insert—

131A Immunity from civil liability

- (1) A chairperson for an objection conference is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a chairperson, the liability instead attaches to the State.

145 Amendment of s 157 (How to appeal)

(1) Section 157—

insert—

(3A) A valuation appeal notice may relate to the objection decision for only 1 objection.

(2) Section 157(3A) and (4)—

renumber as section 157(4) and (5).

146 Amendment of s 248 (Substituted service)

Section 248(2)(a)—

omit, insert—

- (a) posting it to the person at the address of the land to which it relates; or

Division 3 Amendments commencing by proclamation

147 Amendment of s 247 (General address for service)

Section 247(5), ‘address as’—

omit, insert—

electronic or other address as

148 Insertion of new s 247A

After section 247—

insert—

247A Electronic service

- (1) This section applies if—
 - (a) the valuer-general wishes to serve a notice or other document on a person for a purpose under this Act; and
 - (b) the person’s address for service is an electronic address.
- (2) The valuer-general may serve the document on the person by electronically transmitting to the electronic address—
 - (a) the document; or

[s 149]

- (b) a message stating the document is available for the person to view by opening a stated hyperlink.
- (3) For subsection (2)(b), the person is taken to have been served with the document if it was able to be viewed at the location accessed by opening the hyperlink—
 - (a) when the communication was transmitted (the *sending time*); and
 - (b) for a period after the sending time that, in all the circumstances, was reasonable to allow the person to open the hyperlink and read or copy the document.
- (4) Subsection (3) applies whether or not the person opened the hyperlink.
- (5) This section does not limit the *Acts Interpretation Act 1954*, section 39 or the *Electronic Transactions (Queensland) Act 2001*.

149 Amendment of schedule (Dictionary)

Schedule—

insert—

address for service includes an electronic address given for service.

Examples of an electronic address—

an email address, an internet protocol (IP) address, the address of a digital mailbox

Part 10 **Amendment of Local Government Act 2009**

150 Act amended

This part amends the *Local Government Act 2009*.

151 Amendment of s 37 (Development processes)

(1) Section 37(5)(c)—

omit.

(2) Section 37(5)(d)—

renumber as section 37(5)(c).

Part 11 **Amendment of Petroleum Act 1923**

Division 1 **Preliminary**

152 Act amended

This part amends the *Petroleum Act 1923*.

Note—

See also the amendments in schedule 1.

Division 2 **Amendments commencing on assent**

153 Amendment of s 2 (Definitions)

Section 2, definition *1923 Act petroleum tenure*, paragraph (b)—

[s 154]

omit, insert—

- (b) for the following parts, includes a water monitoring authority—
 - (i) part 6B;
 - (ii) parts 6H to 6K;
 - (iii) part 6L, division 2;
 - (iv) parts 6M, 6O, 6P and 6R.

154 Amendment of s 75L (Restrictions on making conversion)

- (1) Section 75L(a) to (c)—

renumber as section 75L(b) to (d).

- (2) Section 75L—

insert—

- (a) the well has been drilled as required under section 75J, or decommissioned under section 75U, on or after 1 January 2012; and

155 Amendment of s 75U (Obligation to decommission)

- (1) Section 75U(1)—

omit, insert—

- (1) This section applies to a person (the *responsible person*) who—

- (a) holds a 1923 Act petroleum tenure on which there is a well, water observation bore or water supply bore drilled by or for the tenure holder or that has been transferred to the tenure holder, unless the well or bore has, under division 3, been transferred to someone else; or

- (b) holds a water monitoring authority on which there is a water observation bore drilled by

or for the authority holder or that has been transferred to the authority holder, unless the bore has, under division 3, been transferred to someone else.

- (2) Section 75U(2), after ‘tenure’—

insert—

or authority

- (3) Section 75U(4A) and (5)—

renumber as section 75U(5) and (6).

156 Amendment of s 75V (Right of entry to facilitate decommissioning)

- (1) Section 75V(1)(b), after ‘tenure’—

insert—

or water monitoring authority

- (2) Section 75V(1)(c) and (3), after ‘tenure’—

insert—

or authority

157 Amendment of s 75W (Responsibility for well or bore after decommissioning)

- (1) Section 75W(1), after ‘holder’—

insert—

or water monitoring authority holder

- (2) Section 75W(2), after ‘tenure’—

insert—

or authority

- (3) Section 75W(4)(a), ‘exploration’—

omit, insert—

[s 158]

well or

158 Amendment of s 75X (Requirement to report outcome of testing)

Section 75X(3)—

omit.

159 Amendment of s 86 (Water rights)

(1) Section 86(1)(a) and (b), at the end—

insert—

and

(2) Section 86(2) and (3)—

omit, insert—

(2) However, a permission under subsection (1) is given on the condition that the authority to prospect holder or lessee complies with the underground water obligations applying to the holder or lessee.

160 Insertion of new pt 15

After section 193—

insert—

**Part 15 Transitional provisions
for Land, Water and
Other Legislation
Amendment Act 2013**

199 Definitions for pt 15

In this part—

commencement means the commencement of the provision in which the word appears.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

200 Continuation of conversion of well

- (1) This section applies if, immediately before the commencement, a 1923 Act petroleum tenure holder was converting a well to a water supply bore under section 75L.
- (2) On the commencement, previous part 6D, division 2 continues to apply to the holder until the well is converted to a water supply bore.

Division 3 Amendments commencing by proclamation

161 Amendment of s 2 (Definitions)

- (1) Section 2, definition *water observation bore*, paragraph 1, after ‘levels’—

insert—

, and includes a well that, under part 6D, division 2, has been, or is taken to have been, converted to a water observation bore

- (2) Section 2, definition *water supply bore*—

omit, insert—

water supply bore means—

- (a) a water bore drilled under section 86 with the permission of the Minister; or

[s 162]

- (b) a well that, under part 6D, division 2, has been, or is taken to have been, converted to a water supply bore.

162 Replacement of s 75K (Restriction on who may drill water observation bore or water supply bore)

Section 75K—

omit, insert—

75K Restriction on who may drill water observation bore or water supply bore

- (1) A person must not drill a water observation bore or water supply bore unless the person is a licensed water bore driller.

Maximum penalty—300 penalty units.

- (2) However, a 1923 Act petroleum tenure holder may drill a water observation bore or water supply bore in the area of the tenure if the holder complies with the requirements for drilling a water observation bore or water supply bore prescribed under a regulation.
- (3) Also, a water monitoring authority holder may drill a water observation bore in the area of the authority if the holder complies with the requirements for drilling a water observation bore prescribed under a regulation.

163 Replacement of pt 6D, div 2 (Converting well to water supply bore)

Part 6D, division 2—

omit, insert—

Division 2 Converting well to water observation bore or water supply bore

75KA Application of div 2

This division applies to a well in the area of a 1923 Act petroleum tenure that has been drilled as required under section 75J, or decommissioned under section 75U, on or after 1 January 2012.

75L Restrictions on making conversion

- (1) The 1923 Act petroleum tenure holder may convert the well to a water observation bore or water supply bore only if—
 - (a) the holder lodges—
 - (i) a well completion report for the well; and
 - (ii) a notice in the approved form that the holder intends to convert the well to a water observation bore or water supply bore; and
 - (b) the holder complies with requirements prescribed under a regulation for converting the well to a water observation bore or water supply bore.

Maximum penalty—500 penalty units.

- (2) The approved form must require the holder to state the day on which the well will be converted to a water observation bore or water supply bore.
- (3) In this section—

well completion report means a well completion report that a regulation requires a 1923 Act

[s 164]

petroleum tenure holder to lodge under section 76G(1)(b).

75M Notice of conversion

The 1923 Act petroleum tenure holder must, within 10 business days after the holder converts the well, lodge a notice stating the information prescribed under a regulation.

Maximum penalty—50 penalty units.

75MA Time of conversion

- (1) The well is taken to be converted to a water observation bore or water supply bore on the earlier of the following—
 - (a) the day stated in the approved form under section 75L;
 - (b) the day the notice under section 75M is lodged.
- (2) However, if the holder fails to give notice under sections 75L and 75M, the well is taken to be converted to a water observation bore or water supply bore immediately after the well is converted.

164 Replacement of s 75Q (Transfer of water observation bore or water supply bore to landowner)

Section 75Q—

omit, insert—

75Q Transfer of water observation bore or water supply bore to landowner

- (1) A 1923 Act petroleum tenure holder may, by complying with the requirements under subsection (3), transfer a water observation bore

or water supply bore in the area of the tenure to the landowner.

Note—

See also the *Water Act 2000*, section 19 (Rights in all water vests in State) and chapter 2, part 2, division 1A (Authorised taking of, or interference with, water without water entitlement).

- (2) A water monitoring authority holder may, by complying with the requirements under subsection (3), transfer a water observation bore in the area of the authority to the landowner.
- (3) The requirements are that both of the following have been lodged—
 - (a) a notice in the approved form;
 - (b) the transfer fee prescribed under a regulation.
- (4) The approved form must require—
 - (a) a statement by the holder transferring the bore that—
 - (i) if the bore has been drilled under section 75K—section 75K has been complied with for the bore; or
 - (ii) if the bore has been converted from a well under section 75L—section 75L has been complied with for the bore; and
 - (b) the signed consent of the landowner to the transfer.
- (5) In this section—

landowner means the owner of the land on which the bore is located.

[s 165]

165 Amendment of s 75S (Transfer of water observation bore to petroleum tenure holders or water monitoring authority holder)

Section 75S—

insert—

- (2) The approved form must require a statement by the holder transferring the bore that—
 - (a) if the bore has been drilled under section 75K—section 75K has been complied with for the bore; or
 - (b) if the bore has been drilled under the 2004 Act, section 282—the 2004 Act, section 282 has been complied with for the bore.

166 Insertion of new s 75XA

After section 75X—

insert—

75XA Notice about water observation bore or water supply bore to Water Act regulator

- (1) This section applies if a person—
 - (a) drills a water observation bore or water supply bore; or
 - (b) converts a well to a water observation bore or water supply bore.
- (2) The person must, within 60 business days after the day the drilling or conversion starts, give a notice to the Water Act regulator stating the information prescribed under a regulation about the bore.

167 Insertion of new ss 201–205

Part 15, as inserted under this Act—

insert—

201 Drilling water observation bores or water supply bores

- (1) This section applies if immediately before the commencement a person, other than a licensed water bore driller, was drilling a water observation bore or water supply bore under section 75K.
- (2) On the commencement, previous section 75K continues to apply to the person until the water observation bore or water supply bore is completed.

202 Converting wells to water supply bores

- (1) This section applies if, immediately before the commencement—
 - (a) a 1923 Act petroleum tenure holder was converting a well to a water supply bore under section 75L; and
 - (b) the holder was not converting the well as allowed under section 200.
- (2) On the commencement—
 - (a) the holder is taken to be converting the well to a water supply bore under new section 75L; and
 - (b) new part 6D, division 2 applies.
- (3) In this section—

new part 6D, division 2 means part 6D, division 2 as inserted under the *Land, Water and Other Legislation Amendment Act 2013*.

new section 75L means section 75L as inserted under the *Land, Water and Other Legislation Amendment Act 2013*.

[s 167]

203 Minister's consent required for particular transfers of water observation bores or water supply bores to landowners

- (1) This section applies if—
 - (a) before the commencement, a 1923 Act petroleum tenure holder lodged a notice under section 75Q(2)(b) to transfer a water observation bore or water supply bore; and
 - (b) immediately before the commencement, the Minister's consent to the transfer had not been given.
- (2) On the commencement, previous section 75Q(3) continues to apply to the transfer.

Note—

Under previous section 75Q(3), the approved form required the signed consent of the Minister and the landowner to the transfer.

204 Statement on approved form under s 75Q if bore drilled or well converted before the commencement

- (1) This section applies if a 1923 Act petroleum tenure holder or a water monitoring authority holder is transferring, under section 75Q—
 - (a) a water observation bore or water supply bore drilled under previous section 75K; or
 - (b) a water supply bore converted from a well under previous section 75L.
- (2) The requirement under section 75Q(4)(a) is taken to be satisfied if the holder gives the chief executive a signed notice stating—
 - (a) if the bore has been drilled under previous section 75K—previous section 75K has been complied with for the bore; or

- (b) if the bore has been converted from a well under previous section 75L—previous section 75L has been complied with for the bore.

205 Statement on approved form under s 75S if water observation bore drilled before the commencement

- (1) This section applies if a 1923 Act petroleum tenure holder, a 2004 Act petroleum tenure holder or a water monitoring authority holder is transferring, under section 75S, a water observation bore drilled under previous section 75K or the pre-amended 2004 Act, section 282.
- (2) The requirement under section 75S(2) is taken to be satisfied if the holder gives the chief executive a signed notice stating—
 - (a) if the bore has been drilled under previous section 75K—previous section 75K has been complied with for the bore; or
 - (b) if the bore has been drilled under the pre-amended 2004 Act, section 282—the pre-amended 2004 Act, section 282 has been complied with for the bore.
- (3) In this section—

pre-amended 2004 Act means the 2004 Act as in force before the commencement.

[s 168]

Part 12 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

Division 1 **Preliminary**

168 **Act amended**

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

Note—

See also the amendments in schedule 1.

Division 2 **Amendments commencing on assent**

169 **Amendment of s 185 (Underground water rights)**

(1) Section 185(5), from ‘only for’—

omit, insert—

for any purpose.

(2) Section 185(5), note—

omit.

170 **Omission of s 186 (Right to allow use of associated water for domestic or stock purposes)**

Section 186—

omit.

171 **Amendment of s 188 (Authorisation for Water Act)**

Section 188, from ‘the following’ to ‘of associated water.’—

omit, insert—

the taking or interference with or the use of water, under the underground water rights is taken to be authorised.

172 Amendment of s 283 (Restrictions on making conversion)

(1) Section 283(a) and (b)—

renumber as section 283(b) and (c).

(2) Section 283—

insert—

(a) the well has been drilled as required under section 281, or decommissioned under section 292, on or after 1 January 2012; and

173 Amendment of s 292 (Obligation to decommission)

(1) Section 292(1)—

omit, insert—

(1) This section applies to a person (the *responsible person*) who—

(a) holds a petroleum tenure on which there is a petroleum well, water observation bore or water supply bore drilled by or for the tenure holder or that has been transferred to the tenure holder, unless the well or bore has, under division 3, been transferred to someone else; or

(b) holds a water monitoring authority on which there is a water observation bore drilled by or for the authority holder or that has been transferred to the authority holder, unless the bore has, under division 3, been transferred to someone else.

(2) Section 292(4)(b)—

[s 174]

insert—

Note—

For the power of an authorised person to ensure compliance, see section 580.

- (3) Section 292(4)(b), as amended—

renumber as section 292(4)(c).

- (4) Section 292(4)—

insert—

(b) for a bore—the decommissioning complies with the Water Act, sections 816 and 817; and

- (5) Section 292(5)—

renumber as section 292(6).

- (6) Section 292—

insert—

(5) Subsection (4)(b) applies only to the extent it is not inconsistent with subsection (4)(a).

174 Amendment of s 294 (Responsibility for well or bore after decommissioning)

- (1) Section 294(2)(a), ‘petroleum tenure’—

omit, insert—

tenure or authority

- (2) Section 294(2)(b), after ‘tenure’—

insert—

or authority

- (3) Section 294(4)(a), ‘exploration’—

omit, insert—

well or

175 Amendment of s 543 (Requirement of petroleum tenure holder to report outcome of testing)

Section 543(3)—

omit.

176 Amendment of s 670 (What is an operating plant)

(1) Section 670(2)(b)(ii), ‘water;’—

omit, insert—

water and any petroleum incidentally collected with the water;

(2) Section 670(2)(d), ‘produced water;’—

omit, insert—

only produced water without any petroleum;

177 Amendment of s 675 (Content requirements for safety management plans)

(1) Section 675(3) and (4)—

renumber as section 675(4) and (5).

(2) Section 675—

insert—

(3) If the description of operating plant includes a description of pipeline that transports produced water, the description must identify—

(a) which, if any, pipelines transport produced water together with petroleum; and

(b) a distinguishable part of the pipeline from which the pipeline would be free from petroleum.

Example for paragraph (b)—

isolation valve or an inlet to a water treatment plant

[s 178]

(3) Section 675(5), as renumbered—

insert—

distinguishable part, of a pipeline, does not include a mere length of pipe.

178 Insertion of new ch 15, pt 16

Chapter 15—

insert—

Part 16 Transitional provisions for Land, Water and Other Legislation Amendment Act 2013

977 Definitions for pt 16

In this part—

commencement means the commencement of the provision in which the word appears.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

978 Continuation of conversion of well

- (1) This section applies if, immediately before the commencement, a petroleum tenure holder was converting a petroleum well to a water supply bore under section 283.
- (2) On the commencement, previous chapter 2, part 10, division 2 continues to apply to the holder until the well is converted to a water supply bore.

Division 3 Amendments commencing by proclamation

179 Replacement of s 282 (Restriction on who may drill water observation bore or water supply bore)

Section 282—

omit, insert—

282 Restriction on who may drill water observation bore or water supply bore

- (1) A person must not drill a water observation bore or water supply bore unless the person is a licensed water bore driller.

Maximum penalty—300 penalty units.

- (2) However, a petroleum tenure holder may drill a water observation bore or water supply bore in the area of the tenure if the holder complies with the requirements for drilling a water observation bore or water supply bore prescribed under a regulation.
- (3) Also, a water monitoring authority holder may drill a water observation bore in the area of the authority if the holder complies with the requirements for drilling a water observation bore prescribed under a regulation.

180 Replacement of ch 2, pt 10, div 2 (Converting petroleum well to water supply bore)

Chapter 2, part 10, division 2—

omit, insert—

Division 2 Converting petroleum well to water observation bore or water supply bore

282A Application of div 2

This division applies to a petroleum well in the area of a petroleum tenure that has been drilled as required under section 281, or decommissioned under section 292, on or after 1 January 2012.

283 Restrictions on making conversion

- (1) The petroleum tenure holder may convert the petroleum well to a water observation bore or water supply bore only if—
 - (a) the holder lodges—
 - (i) a well completion report for the well; and
 - (ii) a notice in the approved form that the holder intends to convert the petroleum well to a water observation bore or water supply bore; and
 - (b) the holder complies with requirements prescribed under a regulation for converting the petroleum well to a water observation bore or water supply bore.

Maximum penalty—500 penalty units.

- (2) The approved form must require the holder to state the day on which the petroleum well will be converted to a water observation bore or water supply bore.
- (3) In this section—

well completion report means a well completion report that a regulation requires a petroleum tenure holder to lodge under section 553(1)(b).

284 Notice of conversion

The petroleum tenure must, within 10 business days after the holder converts the well, lodge a notice stating the information prescribed under a regulation.

Maximum penalty—50 penalty units.

284A Time of conversion

- (1) The petroleum well is taken to be converted to a water observation bore or water supply bore on the earlier of the following—
 - (a) the day stated in the approved form under section 283;
 - (b) the day the notice under section 284 is lodged.
- (2) However, if the holder fails to give notice under sections 283 and 284, the petroleum well is taken to be converted to a water observation bore or water supply bore immediately after the well is converted.

181 Amendment of s 288 (Transfer of water observation bore or water supply bore to landowner)

- (1) Section 288(1)—

insert—

Note—

See also the *Water Act 2000*, section 19 (Rights in all water vests in State) and chapter 2, part 2, division 1A (Authorised taking of, or interference with, water without water entitlement).

[s 182]

(2) Section 288(4)—

omit, insert—

(4) The approved form must require—

(a) a statement by the holder transferring the bore that—

(i) if the bore has been drilled under section 282—section 282 has been complied with for the bore; or

(ii) if the bore has been converted from a petroleum well under section 283—section 283 has been complied with for the bore; and

(b) the signed consent of the landowner to the transfer.

(3) Section 288(5), definition *construction*—

omit.

182 Amendment of s 290 (Transfer of water observation bore to petroleum tenure or water monitoring authority holder)

Section 290—

insert—

(2) The approved form must require a statement by the holder transferring the bore that section 282 has been complied with for the bore.

183 Insertion of new s 543A

After section 543—

insert—

543A Notice about water observation bore or water supply bore to Water Act regulator

(1) This section applies if a person—

-
- (a) drills a water observation bore or water supply bore; or
 - (b) converts a petroleum well to a water observation bore or water supply bore.
- (2) The person must, within 60 business days after the day the drilling or conversion starts, give a notice to the Water Act regulator stating the information prescribed under a regulation about the bore.

184 Amendment of s 670 (What is an *operating plant*)

Section 670(2)(a), ‘maintaining or repairing’—

omit, insert—

completing, maintaining, repairing, converting or decommissioning

185 Insertion of new ss 979–982

Chapter 15, part 16, as inserted under this Act—

insert—

979 Drilling water observation bores or water supply bores

- (1) This section applies if immediately before the commencement a person, other than a licensed water bore driller, was drilling a water observation bore or water supply bore under section 282.
- (2) On the commencement, previous section 282 continues to apply to the person until the water observation bore or water supply bore is completed.

980 Converting petroleum wells to water supply bores

- (1) This section applies if, immediately before the commencement—
 - (a) a petroleum tenure holder was converting a petroleum well to a water supply bore under section 283; and
 - (b) the holder was not converting the well as allowed under section 978.
- (2) On the commencement—
 - (a) the holder is taken to be converting the petroleum well to a water supply bore under new section 283; and
 - (b) new chapter 2, part 10, division 2 applies.
- (3) In this section—

new chapter 2, part 10, division 2 means chapter 2, part 10, division 2 as inserted under the Land, Water and Other Legislation Amendment Act 2013.

new section 283 means section 283 as inserted under the *Land, Water and Other Legislation Amendment Act 2013*.

981 Statement on approved form under s 288 if bore drilled or well converted before the commencement

- (1) This section applies if a petroleum tenure holder or water monitoring authority holder is transferring, under section 288—
 - (a) a water observation bore or water supply bore drilled under previous section 282; or
 - (b) a water supply bore converted from a petroleum well under previous section 283.

-
- (2) The requirement under section 288(4)(a) is taken to be satisfied if the holder gives the chief executive a signed notice stating—
- (a) if the bore has been drilled under previous section 282—previous section 282 has been complied with for the bore; or
- (b) if the bore has been converted from a petroleum well under previous section 283—previous section 283 has been complied with for the bore.

982 Statement on approved form under s 290 if water observation bore drilled before the commencement

- (1) This section applies if a petroleum tenure holder or a water monitoring authority holder is transferring, under section 290, a water observation bore drilled under previous section 282.
- (2) The requirement under section 290(2) is taken to be satisfied if the holder gives the chief executive a signed notice stating previous section 282 has been complied with for the bore.

186 Amendment of sch 2 (Dictionary)

- (1) Schedule 2, definition *water observation bore*, paragraph 1, after ‘levels’—

insert—

, and includes a petroleum well that, under chapter 2, part 10, division 2, has been, or is taken to have been, converted to a water observation bore

- (2) Schedule 2, definition *water supply bore*, paragraph (b), before ‘converted’—

insert—

[s 187]

, or is taken to have been,

Part 13 Amendment of River Improvement Trust Act 1940

Division 1 Preliminary

187 Act amended

This part amends the *River Improvement Trust Act 1940*.

Note—

See also the amendments in schedule 1.

Division 2 Amendments commencing on assent

188 Amendment of s 2 (Definitions)

(1) Section 2—

insert—

councillor, of a local government, see the *Local Government Act 2009*, schedule 4.

(2) Section 2, definitions—

relocate to schedule 1 as inserted under this Act.

(3) Section 2, ‘In this Act—’—

omit, insert—

The dictionary in schedule 1 defines particular words used in this Act.

189 Replacement of s 5 (Membership of trust)

Section 5—

omit, insert—

**Part 3 Membership and
operation of trusts**

Division 1 Membership

5 Membership of trust

- (1) Each trust must consist of the following members—
 - (a) 2 councillors of each constituent local government for the trust, appointed by the local government;
 - (b) up to 3 persons appointed by the Minister.
- (2) Despite subsection (1), if the Minister considers it appropriate, each constituent local government for a trust may appoint 1 councillor as a member of the trust, in addition to the councillors appointed under subsection (1)(a).
- (3) Each person appointed by a local government under subsection (1)(a) or (2) holds office for the term, of no more than 4 years, decided by the local government.
- (4) Each person appointed by the Minister under subsection (1)(b) holds office for the term, of no more than 4 years, decided by the Minister.
- (5) Despite subsections (3) and (4) and section 5A(6), if a person completes the person's term of office as a member of a trust, the person continues to hold office as a member until the person's successor is appointed.
- (6) This section is subject to divisions 2 and 4.

(7) In this section—

constituent local government, for a trust, means a local government whose local government area or part of the area is included in the river improvement area for which the trust is constituted.

5A Appointment of members to vacancies

- (1) If the office of a member of a trust appointed by a local government under section 5(1)(a) or (2) becomes vacant, the local government must appoint another of its councillors to the office within 30 days after the vacancy.
- (2) If a local government does not appoint a councillor to a vacant office under subsection (1), the Minister may give the local government a written notice requiring it to appoint a councillor to the office within a reasonable period of at least 7 days.
- (3) If the local government does not comply with the notice, the Minister may appoint a person, whether or not a councillor of the local government, to the vacant office.
- (4) If the office of a member of a trust appointed by the Minister under section 5(1)(b) becomes vacant, the Minister may appoint another person to the office.
- (5) However, if there are no other members of the trust appointed under section 5(1)(b), the Minister must appoint another person to the vacant office.
- (6) A person appointed under this section is appointed for the balance of the term of office of the person's predecessor.
- (7) This section is subject to divisions 2 and 4.

5B Application of particular provisions of Local Government Act

The *Local Government Act 2009*, chapter 6, part 2, division 5 applies to a member of the trust as if—

- (a) a reference to a councillor were a reference to a member of the trust; and
- (b) a reference to a local government, or the chief executive officer of a local government, were a reference to the trust; and
- (c) a reference to a local government's area were a reference to the trust's river improvement area; and
- (d) all other necessary changes were made.

Division 2 Eligibility for membership

5C Eligibility for appointment as member

- (1) A person is not eligible to be appointed as a member of a trust if the person—
 - (a) is incapable of performing the member's functions because of physical or mental incapacity; or
 - (b) is an insolvent under administration under the Corporations Act, section 9; or
 - (c) has been convicted of an indictable offence and the rehabilitation period for the offence has not expired or has been revived under the *Criminal Law (Rehabilitation of Offenders) Act 1986*; or
 - (d) is the secretary or another officer or an employee of the trust; or

[s 189]

- (e) is directly interested in an agreement with, or on behalf of, the trust.
- (2) Also, a person is not eligible to be appointed as a member of a trust by a local government under section 5(1)(a) or (2) or 5A(1) or (2) if the person's term of office as councillor of the local government has ended or the office has otherwise become vacant.

5D Investigations about eligibility for appointment

- (1) The chief executive may make investigations about a person to decide whether the person is eligible to be appointed as a member of the trust.
- (2) Without limiting subsection (1), the chief executive may—
 - (a) by written notice, ask the person for written consent for the chief executive to obtain a written report about the person's criminal history; and
 - (b) if the person gives the consent, ask the commissioner of the police service for a written report about the person's criminal history.
- (3) The commissioner must give the requested report to the chief executive.
- (4) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

5E Criminal history is confidential document

- (1) A public service employee in the employ of the department or an agent engaged to perform services for the department must not, directly or indirectly, disclose to anyone else a report, or

information contained in a report, given under section 5D.

Maximum penalty—100 penalty units.

- (2) However, the officer, employee or agent does not contravene subsection (1) if—
 - (a) disclosure of the report or information to someone else is authorised by the chief executive to the extent necessary to perform a function under or in relation to this Act; or
 - (b) the disclosure is otherwise required or permitted by law.
- (3) The chief executive must destroy the report as soon as practicable after considering the person's eligibility.

Division 3 Executive members

5F Chairperson

- (1) A trust must elect one of its members appointed under section 5(1)(b) as its chairperson—
 - (a) at its first meeting; and
 - (b) within 30 days after a vacancy in the office of chairperson.
- (2) However, if only 1 member of the trust has been appointed under section 5(1)(b), the Minister must appoint that member as the chairperson.
- (3) If the trust does not elect a chairperson under subsection (1), the Minister may appoint a member appointed under section 5(1)(b) as the chairperson.

5G Deputy chairperson

- (1) A trust must elect one of its members, other than the chairperson, as its deputy chairperson—
 - (a) at its first meeting; and
 - (b) within 30 days after a vacancy in the office of deputy chairperson.
- (2) If the trust does not elect a deputy chairperson under subsection (1), the Minister may appoint a person, other than the chairperson, as deputy chairperson of the trust.
- (3) The deputy chairperson is to act as chairperson—
 - (a) during a vacancy in the office of chairperson; or
 - (b) during a period when the chairperson is absent from duty or, for another reason, can not perform the functions of the office.

5H Term of office

- (1) A person holds office as the chairperson or deputy chairperson for the person's term of office as a member of the trust.
- (2) Despite subsection (1) and section 5(3) and (4), if a person completes the person's term of office as the chairperson or deputy chairperson, the person continues to hold the office until the person's successor is appointed.
- (3) A person appointed to fill a vacancy in the office of a member who was chairperson or deputy chairperson does not become the chairperson or deputy chairperson only because of the person's appointment.
- (4) Subsection (3) does not apply to a person appointed under section 5F(2) or (3) or 5G(2).

Division 4 Vacancies of office

5I Casual vacancy

- (1) The office of a member of a trust becomes vacant if any of the following happens—
 - (a) the member dies during the member's term of office;
 - (b) the member resigns from office;
 - (c) for a member appointed by a local government—the local government removes the member from office;
 - (d) for a member appointed by the Minister—the Minister removes the member from office.
- (2) The office of a member of a trust who is a councillor of a local government also becomes vacant if the person's term of office as councillor ends or the office as councillor otherwise becomes vacant.
- (3) The office of a person who is the chairperson or deputy chairperson of a trust also becomes vacant if—
 - (a) the person resigns from the office; or
 - (b) the person is removed from the office under section 5L; or
 - (c) the office of the person as a member of the trust becomes vacant under subsection (1) or (2).

5J Resignation

- (1) A member of a trust may resign from office as a member by signed notice of resignation given to the chairperson of the trust.

[s 189]

- (2) The chairperson of a trust may resign from office as chairperson by signed notice of resignation given to the other members of the trust.
- (3) The deputy chairperson of a trust may resign from office as the deputy chairperson by signed notice of resignation given to the chairperson of the trust.
- (4) A person resigning from the office of chairperson or deputy chairperson of a trust may continue to be a member of the trust.

5K Removal from office as member

- (1) This section applies to a local government or the Minister for removing from office as a member of a trust a person the local government or Minister has appointed.
- (2) The local government or Minister may remove the person from the office on any of the following grounds—
 - (a) the person is ineligible to be appointed as a member under section 5C;
 - (b) the person is absent from 3 consecutive meetings of the trust without the trust's leave and without reasonable excuse;
 - (c) the person declines to act as a member;
 - (d) the person is convicted of an offence against this Act.

5L Removal from office as chairperson or deputy chairperson

- (1) This section applies to—
 - (a) a trust, for removing from office a person who has been elected to the office of

-
- chairperson or deputy chairperson of the trust; or
- (b) the Minister, for removing from office a person the Minister has appointed to the office of chairperson or deputy chairperson of a trust under section 5F(2) or (3) or 5G(2).
- (2) The trust or Minister may remove the person from the office if—
- (a) a ground to remove the person from office as a member of the trust exists under section 5K(2); or
- (b) the person declines to act as the chairperson or deputy chairperson of the trust; or
- (c) the person is prohibited under the Corporations Act from being a director of a body corporate for a reason other than a person's age.

5M Removal of all trust members

- (1) The Minister may remove all the members of a trust from office if—
- (a) the trust does not meet at least twice a year; or
- (b) the trust does not comply with its obligations under the *Financial Accountability Act 2009* for the preparation and submission of annual financial statements and annual reports under that Act.
- (2) To remove any doubt, it is declared that subsection (1) applies to the removal of a member of a trust even if the member was appointed by a local government.

Division 5 Procedures

5N Times and places of meetings

- (1) Meetings of a trust are to be held at the times and places decided by the trust.
- (2) However, a trust must meet at least twice a year.

5O Quorum

A quorum at a meeting of a trust is 2 of its members.

5P Presiding at meetings

- (1) The chairperson is to preside at all meetings of a trust at which the chairperson is present.
- (2) If the chairperson is absent from a meeting or the office of chairperson is vacant, the deputy chairperson is to preside.
- (3) If the deputy chairperson cannot preside at a meeting under subsection (2), a member chosen by the members present is to preside.

5Q Conduct of meetings

- (1) A question at a meeting of the trust is decided by a majority of the votes of the members present.
- (2) Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.
- (3) If a member present at a meeting fails to vote, the member is taken to have voted in the negative.

5R Other procedures

Subject to this division, a trust must conduct its business, including its meetings—

- (a) in the way prescribed under a regulation; or
- (b) in so far as the way is not prescribed, as it considers appropriate.

Division 6 Other matters

5S Validity of trust's acts, proceedings or decisions

- (1) An act, proceeding or decision of a trust is not invalidated only because of—
 - (a) a defect in the qualification, appointment or membership of a member of the trust; or
 - (b) a vacancy in the membership of the trust at the time of the act, proceeding or decision.
- (2) However, subsection (1) applies only if there was a quorum at the meeting of the trust at which the act was done, proceeding was taken or, decision was made.

Part 4 Officers and employees of trusts

190 Amendment of s 10 (Works which trust shall undertake or maintain)

Section 10(2), from 'who' to 'modification'—

omit, insert—

who may approve the plan with or without changes

[s 191]

191 Insertion of new pt 9, div 2 and sch 1

After section 24—

insert—

Division 2 Transitional provisions for Land and Water and Other Legislation Amendment Act 2013

25 Definition for div 2

In this division—

commencement means the commencement of the provision in which the word appears.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

26 Continuation of office of existing members, chairperson and deputy chairperson

- (1) A person who, immediately before the commencement, was a member of a trust continues to be a member of the trust under previous section 5 until—
 - (a) the person's term of office as a member ends under previous section 5 and the person is reappointed, or the person's successor is appointed, as a member of the trust under section 5(1) or (2); or
 - (b) the office is sooner vacated.
- (2) A person who, immediately before the commencement, was the chairperson of a trust continues to be the chairperson of the trust under previous section 5 until—

- (a) the person stops being a member of the trust under subsection (1)(a) or (b); or
 - (b) the person's term of office as the chairperson ends under previous section 5 and a person is elected or appointed as the chairperson of the trust under section 5F; or
 - (c) the office is sooner vacated.
- (3) A person who, immediately before the commencement, was the deputy chairperson of a trust continues to be the deputy chairperson of the trust under previous section 5 until—
- (a) the person stops being a member of the trust under subsection (1)(a) or (b); or
 - (b) the office of the deputy chairperson is sooner vacated.
- (4) Subject to subsections (1) to (3)—
- (a) previous section 5 applies to a person continuing to hold an office; and
 - (b) sections 5I(3)(b), 5K and 5L do not apply to the person.

27 Application of new membership requirements to existing trusts

- (1) Section 5(1)(b) applies to a trust in existence or constituted before the commencement as if each member of the trust appointed by the Governor in Council under previous section 5 (a *relevant existing member*) had been appointed by the Minister.
- (2) However, subsection (1) applies to a relevant existing member only while the member continues to be member of the trust under previous section 5 as applied under section 26(1).

[s 192]

28 Deferral of requirement to elect or appoint chairperson or elect deputy chairperson

- (1) This section applies to a trust if, immediately before the commencement, a person held office as the chairperson or deputy chairperson of the trust.
- (2) Section 5F does not apply to the trust until—
 - (a) the person's term of office as chairperson ends; or
 - (b) the office is sooner vacated.
- (3) Section 5G(1) and (2) does not apply to the trust until—
 - (a) the person's term of office as deputy chairperson ends; or
 - (b) the office is sooner vacated.
- (4) This section applies despite sections 5F and 5G.

Schedule 1 Dictionary

section 2

Division 3 Amendments commencing by proclamation

192 Insertion of new s 20B

After section 20A—

insert—

20B Fees and allowances for chairperson and members

The chairperson and other members of a trust are entitled to be paid the fees and allowances approved by the Minister.

193 Amendment of s 22 (Regulation-making power)

Section 22(2)(e), ‘chairperson, other members, and’—
omit.

Part 14 Amendment of South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

194 Act amended

This part amends the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*.

Note—

See also the amendment in schedule 1.

195 Amendment of s 53 (Delegation)

(1) Section 53(5)(a), from ‘30 June’ to ‘regulation’—

omit, insert—

on the relevant day

(2) Section 53(11)—

insert—

relevant day means 28 February 2014 or any other day prescribed under a regulation.

[s 196]

196 Amendment of s 99BJ (Requirement for SEQ service provider to have plan)

Section 99BJ, ‘1 July 2013’—

omit, insert—

1 March 2014

197 Amendment of s 99BL (Requirement for SEQ service provider to review plan)

Section 99BL, ‘1 July 2013’—

omit, insert—

1 March 2014

Part 15 Amendment of Sustainable Planning Act 2009

198 Act amended

This part amends the *Sustainable Planning Act 2009*.

Note—

See also the amendments in schedule 1.

199 Amendment of s 755A (Definitions for pt 7A)

(1) Section 755A, definition *development application (distributor-retailer)*, paragraph (a), ‘1 July 2013’—

omit, insert—

the end of the relevant day

(2) Section 755A—

insert—

relevant day see the SEQ Water Act, section 53(11).

Editor's note—

SEQ Water Act, section 53(11), definition *relevant day*—

relevant day means 28 February 2014 or any other day prescribed under a regulation.

200 Amendment of s 755G (Compliance assessment—local government as compliance assessor)

Section 755G(2), '1 July 2013'—

omit, insert—

the end of the relevant day

201 Amendment of s 755H (Compliance assessment—nominated entity as compliance assessor)

Section 755H(2), '1 July 2013'—

omit, insert—

the end of the relevant day

202 Amendment of s 755I (Notice about compliance permits and compliance certificates)

Section 755I(1), '1 July 2013'—

omit, insert—

the end of the relevant day

203 Insertion of new ch 10, pt 7

Chapter 10—

insert—

Part 7 **Transitional provision for Land, Water and Other Legislation Amendment Act 2013**

947 Amendment of regulation by Land, Water and Other Legislation Amendment Act 2013 does not affect powers of Governor in Council

The amendment of the *Sustainable Planning Regulation 2009* by the *Land, Water and Other Legislation Amendment Act 2013* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

Part 15A **Amendment of Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012**

203A Act amended

This part amends the *Sustainable Planning and Other Legislation Amendment Act (No. 2) 2012*.

Editor's note—

Sections 203B to 203G, legislation ultimately amended—

- *Sustainable Planning Act 2009*

203B Amendment of s 2 (Commencement)

(1) Section 2, first dot point, 'and (4)'—

omit, insert—

, (4), (4A) and (29A)

(2) Section 2, after first dot point—

insert—

- sections 51A and 84A to 84F

(3) Section 2, second dot point, ‘section 944’—

omit, insert—

sections 944 and 944A

203C Amendment of s 35 (Insertion of new ch 6, pt 1, div 4, sdiv 2A)

(1) Section 35, inserted section 255E(1)—

omit, insert—

(1) This section applies to an application if—

- (a) the chief executive is the assessment manager or a referral agency for the application; and
- (b) had the application been made before the commencement of this section, an entity (a *relevant entity*) other than the local government would have been the assessment manager, or the referral agency, for the application; and
- (c) another Act imposes requirements on the relevant entity assessing the application as the assessment manager or referral agency.

(2) Section 35, inserted section 255E(11)—

renumber as section 255E(14).

(3) Section 35, inserted section 255E—

insert—

- (11) Subsection (12) applies if, under the other Act, a function is conferred—

- (a) on the relevant entity as the assessment manager or a referral agency for the application; and
 - (b) for an investigative or enforcement purpose.
- (12) For the purpose, the relevant entity is taken to be the assessment manager or a referral agency for the application.
- (13) This section does not apply to the *Airport Assets (Restructuring and Disposal) Act 2008*, chapter 3, part 2.

203D Insertion of new s 51A

After section 51—

insert—

51A Amendment of s 367 (What is a *permissible change* for a development approval)

- (1) Section 367(1), after ‘that would not’—
insert—
, because of the change
- (2) Section 367(2), ‘(the applicable law)’
omit.
- (3) Section 367(3)—
omit.

203E Insertion of new ss 84A to 84F

After section 84—

insert—

**84A Amendment of ch 8, pt 1, div 8, hdg
(Conditions State infrastructure providers may
impose for infrastructure)**

Chapter 8, part 1, division 8, heading, from ‘State
infrastructure’—

omit, insert—

**chief executive and State infrastructure
providers may impose**

**84B Amendment of s 653 (Conditions State
infrastructure provider may impose)**

- (1) Section 653, heading, after ‘Conditions’—

insert—

chief executive and

- (2) Section 653(1), ‘A State infrastructure
provider’—

omit, insert—

The chief executive or a State infrastructure
provider (the *imposing entity*)

- (3) Section 653(5), ‘State infrastructure
provider’—

omit, insert—

imposing entity

**84C Amendment of s 654 (Requirements for
conditions about safety or efficiency)**

- (1) Section 654(3), ‘State infrastructure
provider’—

omit, insert—

imposing entity

- (2) Section 654(3), ‘provider is’—

omit, insert—

imposing entity is

84D Amendment of s 655 (Requirements for conditions about additional infrastructure costs)

- (1) Section 655(1), ‘A State infrastructure provider’—

omit, insert—

An imposing entity

- (2) Section 655(1)(b), ‘State infrastructure provider’—

omit, insert—

imposing entity

- (3) Section 655(3), ‘infrastructure provider’—

omit, insert—

imposing entity

- (4) Section 655(5), ‘State infrastructure provider’—

omit, insert—

imposing entity

- (5) Section 655(5), ‘provider is’—

omit, insert—

imposing entity is

84E Amendment of s 656 (State infrastructure provider additional infrastructure costs in priority infrastructure areas)

- (1) Section 656, heading, ‘State infrastructure provider additional’—

omit, insert—

Additional

- (2) Section 656(1), ‘a State infrastructure provider’—

omit, insert—

an imposing entity

- (3) Section 656(2), ‘State infrastructure provider’—

omit, insert—

imposing entity

84F Amendment of s 657 (State infrastructure provider additional infrastructure costs outside priority infrastructure areas)

Section 657, heading, ‘State infrastructure provider additional’—

omit, insert—

Additional

203F Amendment of s 122 (Insertion of new ch 10, pt 6)

Section 122, inserted section 944—

omit, insert—

944 Development applications not decided on commencement

- (1) This section applies to a development application made but not decided on the commencement.
- (2) The development application must be dealt with and decided under this Act as in force immediately before the commencement.

**944A Chief executive is assessment manager
or concurrence agency for ch 6, pt 8, divs
2 and 5**

- (1) This section applies to a relevant development approval if—
 - (a) an entity other than the chief executive (the *relevant entity*) was the assessment manager or a concurrence agency for the application to which the approval relates; and
 - (b) had the application been made after the commencement, the chief executive would have been the assessment manager or a concurrence agency for the application.
- (2) For chapter 6, part 8, divisions 2 and 5—
 - (a) the chief executive is taken to be—
 - (i) if the relevant entity was the assessment manager—the assessment manager; or
 - (ii) if the relevant entity was a concurrence agency—that concurrence agency; and
 - (b) if the relevant entity as a concurrence agency imposed a condition of the approval—the chief executive is taken to have imposed the condition.
- (3) In this section—

relevant development approval means a development approval—

 - (a) given before the commencement; or
 - (b) given after the commencement if the application to which the approval

relates was made before the commencement.

203G Amendment of s 123 (Amendment of sch 3 (Dictionary))

(1) Section 123—

insert—

(4A) Schedule 3—

insert—

imposing entity see section 653(1).

(2) Section 123—

insert—

(29A) Schedule 3, definition *State infrastructure provider*, ‘concurrency agency’—

omit, insert—

public sector entity, other than a local government,

Part 16 Amendment of Sustainable Planning Regulation 2009

204 Regulation amended

This part amends the *Sustainable Planning Regulation 2009*.

Note—

See also the amendments in schedule 1.

[s 205]

205 Amendment of sch 7 (Referral agencies and their jurisdictions)

Schedule 7, table 2, item 47, paragraph (c) and table 3, item 26, column 1, ‘1 July 2013’—

omit, insert—

1 March 2014

Part 17 Amendment of Torres Strait Islander Land Act 1991

206 Act amended

This part amends the *Torres Strait Islander Land Act 1991*.

Note—

See also the amendments in schedule 1.

207 Amendment of s 10 (DOGIT land)

(1) Section 10(2), from ‘road if the land’—

omit, insert—

road.

(2) Section 10(4), from ‘if the land’—

omit, insert—

if the land has, since the enactment day, become a road.

208 Amendment of s 11 (Torres Strait Islander reserve land)

Section 11—

insert—

- (3) Further, Torres Strait Islander reserve land includes land within the external boundaries of land mentioned in subsection (1)(a) if the land has, since the enactment day, ceased to be a road.
- (4) Torres Strait Islander reserve land does not include land within the external boundaries of land mentioned in subsection (1)(a) if the land has, since the enactment day, become a road.

209 Replacement of s 43 (Cancellation of deed of grant in trust)

Section 43—

omit, insert—

43 Cancellation of deed of grant in trust

- (1) This section applies if a deed of grant (the *new deed*) over the whole or a part of the land comprised in a deed of grant in trust takes effect under section 40.
- (2) The deed of grant in trust is cancelled to the extent of the new deed.

210 Replacement of pt 14, div 2, hdg (Minister's power to appoint, remove or suspend members of land trusts)

Part 14, division 2, heading—

omit, insert—

Division 2 Appointment, removal and suspension of members of land trusts

211 Amendment of s 156 (Minister may appoint member)

- (1) Section 156(1)(a)—

omit.

[s 212]

- (2) Section 156(1)(b) and (c)—
renumber as section 156(1)(a) and (b).

212 Insertion of new s 156A

Part 14, division 2, subdivision 1—

insert—

156A Land trust may appoint member

- (1) A land trust may, by resolution, appoint a person to be a member of the land trust.
- (2) A land trust must not appoint a person under subsection (1)—
 - (a) without the person's consent; or
 - (b) if the person has been removed as a member of any land trust by the Minister under this division.
- (3) A person appointed as a member of a land trust under this section becomes a member on—
 - (a) the day the resolution appointing the person as a member is made; or
 - (b) a later day stated in the resolution.
- (4) A land trust must record its decision to appoint a person as a member of the land trust in the minutes of the meeting at which the person was appointed.

213 Replacement of pt 14, div 2, sdiv 2, hdg (Removal or suspension of members)

Part 14, division 2, subdivision 2, heading—

omit, insert—

Subdivision 2 Grounds for removal or suspension of members

214 Amendment of s 157 (Grounds for removal or suspension of member)

- (1) Section 157(c), ‘fraudulent or improper way’—

omit, insert—

way that is fraudulent, improper or contrary to the best interests of the land trust

- (2) Section 157(d) and (e)—

omit.

- (3) Section 157—

insert—

- (2) Also, it is a ground for the Minister to remove or suspend a member that, because of any circumstances affecting the operation of the land trust—

- (a) the land trust can not remove or suspend a member and a majority of members of the land trust have asked the Minister in writing to remove or suspend the member; and
- (b) a ground mentioned in subsection (1)(a), (b) or (c) exists in relation to the member.

Example of circumstances affecting the operation of a land trust—

A land trust can not form a quorum for a general meeting of the land trust to remove or suspend a member.

215 Amendment of s 158 (Show cause notice)

Section 158(3)—

insert—

[s 216]

- (f) that, if the member is removed as a member of the land trust, the member is also removed as a member of any other land trust.

216 Amendment of s 161 (Removing or suspending member)

Section 161(7)—

omit.

217 Insertion of new s 161A

After section 161—

insert—

161A Effect of removing member on other land trust membership

- (1) This section applies if the Minister removes a member from a land trust under section 161(2) and the member is also a member of another land trust.
- (2) The member is also removed as a member of the other land trust.

218 Replacement of s 162 (Immediate removal or suspension of member)

Section 162—

omit, insert—

162 Immediate suspension of member

- (1) The Minister may suspend a member of a land trust immediately if the Minister believes—
 - (a) either—
 - (i) a ground exists to remove or suspend the member; or

- (ii) the member is a member of the executive committee of the land trust and, in performing the member's functions as a member of the committee, is likely to contravene a provision of this Act; and
 - (b) it is necessary to suspend the member immediately because there is an immediate risk to the proper operation of the land trust or proper dealing with trust property.
- (2) However, the Minister may only immediately suspend the member under this section if the Minister also gives a show cause notice under section 161 to the member and the land trust in relation to the proposed action of removing or suspending the member.
- (3) If the Minister decides to immediately suspend the member, the Minister must, at the same time the Minister gives the show cause notice under section 161—
 - (a) give the member an information notice about the decision to immediately suspend the member; and
 - (b) give a copy of the information notice mentioned in paragraph (a) to the land trust.
- (4) The suspension—
 - (a) operates immediately the notices mentioned in subsection (3) are given to the member; and
 - (b) if the member is also a member of another land trust—suspends the member as a member of the other land trust; and
 - (c) continues to operate until the earlier of the following happens—

[s 219]

- (i) the show cause notice is finally dealt with;
- (ii) 60 days have passed since the notices were given to the member.

219 Replacement of pt 14, div 2, sdiv 3 (Other matters)

Part 14, division 2, subdivision 3—

omit, insert—

Subdivision 4 Removal or suspension of members by land trust

163 Proposed removal or suspension approved by resolution and show cause notice

- (1) A land trust may, by resolution, decide to take action under this subdivision (the *proposed action*) to remove or suspend a member of the land trust because a ground exists for the removal or suspension.
- (2) However, members of the land trust must be given at least 14 days notice of the general meeting of the land trust at which the resolution is intended to be proposed.
- (3) If the land trust makes a decision under subsection (1), the land trust must—
 - (a) refer the matter of the proposed action to the executive committee of the land trust to decide; and
 - (b) give the member a notice (a *show cause notice*).
- (4) The show cause notice must state all of the following—

- (a) details of the resolution mentioned in subsection (1), including the date the resolution was made;
 - (b) the proposed action;
 - (c) the ground for the proposed action;
 - (d) an outline of the facts and circumstances forming the basis for the ground;
 - (e) if the proposed action is suspension of the member—the proposed suspension period;
 - (f) that the member may, within a stated period (the *show cause period*), make written representations to the land trust to show why the proposed action should not be taken.
- (5) The show cause period must end at least 1 month after the show cause notice is given.

163A Representations about show cause notice

- (1) The member may make written representations to the land trust about the show cause notice during the show cause period.
- (2) A copy of any representations made by the member under subsection (1) must be given to each member of the executive committee of the land trust.

163B Land trust decisions about removal or suspension of member

- (1) This section provides for how, by a resolution of the executive committee of the land trust, the land trust decides the action to be taken about a show cause notice given to a member of the land trust.
- (2) The resolution may be made only if the show cause period stated in the show cause notice has ended.

[s 219]

- (3) The executive committee must—
 - (a) consider all representations about the show cause notice received under section 163A(1); and
 - (b) decide—
 - (i) whether a ground exists to remove or suspend the member; and
 - (ii) if the executive committee decides a ground exists—whether removal or suspension of the member is warranted.
- (4) The land trust must take no further action about the show cause notice if the executive committee decides—
 - (a) no ground exists to remove or suspend the member; or
 - (b) a ground exists but the removal or suspension of the member is not warranted.
- (5) Subsections (6) to (8) apply if the executive committee decides a ground exists to remove or suspend the member and that the removal or suspension of the member is warranted.
- (6) The executive committee may decide to—
 - (a) if the proposed action was to remove the member—remove or suspend the member; or
 - (b) if the proposed action was to suspend the member—suspend the member for not longer than the proposed suspension period.
- (7) If a motion proposing removal or suspension is not passed by resolution, the executive committee of the land trust may decide to—
 - (a) adjourn the matter of the proposed action; or

- (b) refer the matter of the proposed action to a general meeting of the land trust to decide; or
 - (c) take no further action about the show cause notice.
- (8) A decision to remove or suspend takes effect on the day an information notice about the decision is given to the member under section 163D or a later day stated in the notice.
- (9) The executive committee of the land trust must record its decisions under this section—
- (a) if a decision was made at a meeting of the executive committee—in the minutes of the meeting at which the decision was made; or
 - (b) otherwise—in writing.

163C Decisions about removal or suspension of member referred to land trust general meeting

- (1) This section applies if the executive committee of a land trust refers, to a general meeting of the land trust, the matter of the action to be taken about a show cause notice given to a member of the land trust.
- (2) The land trust may, by resolution at a general meeting of the land trust, decide the action to be taken about the show cause notice.
- (3) For subsection (2), section 163B applies with a reference to the executive committee of the land trust taken to be a reference to the land trust.
- (4) However, if a motion proposing removal or suspension fails to pass by resolution, the land trust must take no further action about the show cause notice.

163D Action after decision about removal or suspension of member

- (1) This section applies if a decision about a show cause notice given to a member of a land trust is made under section 163B or 163C.
- (2) As soon as practicable after the decision is made, the land trust must give the member notice of the following—
 - (a) if, because of the decision, the land trust is, or is required, to take no further action about the show cause notice—notice that no further action will be taken;
 - (b) if the decision is to remove or suspend the member—an information notice for the decision;
 - (c) if the decision is to adjourn the matter of the removal or suspension of the member—notice of the decision to adjourn the matter;
 - (d) if the decision is to refer the matter of the removal or suspension of a member of the land trust to a general meeting of the land trust—notice of the decision to refer the matter and of the day and time of the general meeting of the land trust at which the matter will be considered.

163E Immediate suspension of member

- (1) A land trust may, by a resolution of the executive committee of the land trust, suspend a member of a land trust immediately if the executive committee decides—
 - (a) either—
 - (i) a ground exists to remove or suspend the member; or

- (ii) the member is a member of the executive committee and, in performing the member's functions as a member of the executive committee, is likely to contravene a provision of this Act; and
 - (b) it is necessary to suspend the member immediately because there is an immediate risk to the proper operation of the land trust or proper dealing with trust property.
- (2) If the executive committee decides to immediately suspend the member, it must—
- (a) give the member an information notice about the decision; and
 - (b) ensure a motion proposing disciplinary action be taken against the member is considered at a general meeting of the land trust within 60 days after the information notice is given to the member.
- (3) The suspension—
- (a) operates immediately the information notice is given to the member; and
 - (b) continues to operate until the earliest of the following happens—
 - (i) a motion proposing disciplinary action be taken against the member fails to pass by resolution at a general meeting of the land trust;
 - (ii) 60 days have passed since the information notice was given to the member and the member has not been given, under section 163(3), a show cause notice for proposed disciplinary action against the member;

[s 219]

- (iii) a show cause notice for proposed disciplinary action against the member, given to the member under section 163(3), is finally dealt with;
 - (iv) 60 days have passed since the member was given, under section 163(3), a show cause notice for proposed disciplinary action against the member.
- (4) In this section—
- disciplinary action*, against a member of a land trust, means action to remove or suspend the member under this subdivision.

163F Limitation on land trust's power about suspension of member

A land trust can not end the suspension of a person from membership of the land trust if the suspension is imposed by the Minister under this division.

Subdivision 5 Information about appointment, removal or resignation of members

163G Information about appointment, removal or resignation of members

- (1) This section applies to a land trust if—
 - (a) the land trust appoints a person as a member of the land trust or removes a member from the land trust; or
 - (b) a member of the land trust resigns.
- (2) As soon as practicable after the appointment, removal or resignation has effect, the land trust

must give the chief executive notice of the appointment, removal or resignation.

220 Insertion of new s 171A

After section 171—

insert—

171A Resolution of executive committee without meeting

A resolution of the executive committee of a land trust is validly made by the committee, even if it is not passed at a meeting of the committee, if—

- (a) notice of the proposed resolution is given, under procedures approved by the committee, to all members of the committee entitled to vote on the resolution (the *voting members*); and
- (b) a majority of the voting members give written agreement to the resolution.

221 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definitions *proposed action*, *show cause notice* and *show cause period*—

omit.

- (2) Schedule 1—

insert—

information notice, about a decision, means a notice stating all of the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may appeal to the Land Court against the

[s 222]

decision within 28 days after receiving the notice;

- (d) how the person may appeal.

notice means written notice.

proposed action—

- (a) for a provision about action to be taken by the Minister under part 14, division 2, subdivision 3, see section 158(3)(a); or
- (b) for a provision about action to be taken by a land trust under part 14, division 2, subdivision 4, see section 163(1).

show cause notice—

- (a) for a notice given by the Minister, see section 158(2); or
- (b) for a notice given by a land trust, see section 163(3).

show cause period—

- (a) for a provision about a show cause notice given by the Minister, see section 158(3)(e); or
- (b) for a provision about a show cause notice given by a land trust, see section 163(4)(f).

Part 18

Amendment of Vegetation Management Act 1999

222 Act amended

This part amends the *Vegetation Management Act 1999*.

Note—

See also the amendments in schedule 1.

223 Amendment of s 11 (Minister must make regional vegetation management codes)

(1) Section 11(3)—

omit.

(2) Section 11(4) and (5)—

renumber as section 11(3) and (4).

224 Insertion of new s 20ADA

Part 2, division 5AA—

insert—

20ADA What is the *vegetation management watercourse map*

The *vegetation management watercourse map* is a map certified by the chief executive as the vegetation management watercourse map showing particular watercourses for the State.

Note—

The vegetation management watercourse map consists of the following documents—

- the document called ‘Vegetation management watercourse map (1:25 000)’
- the document called ‘Vegetation management watercourse map (1:100 000 and 1:250 000)’

225 Insertion of new pt 6, div 8

Part 6—

insert—

Division 8 Transitional provision for Land, Water and Other Legislation Amendment Act 2013

109 Validation for reliance on particular maps

- (1) This section applies if, before the commencement of this section—
 - (a) the chief executive—
 - (i) assessed, as the assessment manager or a concurrence agency, a vegetation clearing application against a regional vegetation management code; or
 - (ii) assessed, as a concurrence agency, a concurrence agency application against a regional vegetation management code; and
 - (b) the code referred to a document it called the ‘vegetation management watercourse map’; and
 - (c) the chief executive, in assessing the application against the code, relied on the document; and
 - (d) when the application was assessed, the document was known by any of the following names—
 - (i) ‘*Vegetation Management Act Remnant Watercourses Version 2.1*’;
 - (ii) ‘*Vegetation Management Act Remnant Watercourses 25K Version 2.1*’;
 - (iii) ‘Vegetation management watercourse map part 1’;

- (iv) ‘Vegetation management watercourse map part 2
- (2) The chief executive’s reliance on the document is taken to be, and always to have been, valid for assessing the application.

226 Amendment of schedule (Dictionary)

- (1) Schedule—

insert—

vegetation management watercourse map see section 20ADA.

- (2) Schedule, definition *vegetation management map*—

insert—

(f) vegetation management watercourse map.

Part 19 Amendment of Water Act 2000

Division 1 Preliminary

227 Act amended

This part amends the *Water Act 2000*.

Note—

See also the amendments in schedule 1.

[s 229]

Division 2 Amendments commencing on assent

229 Replacement of ss 50 and 50A

Sections 50 and 50A—

omit, insert—

50 Preparing and approving final draft water resource plan

- (1) In preparing the final draft water resource plan, the Minister must consider all properly made submissions about the draft plan under section 49.
- (2) A final draft water resource plan does not have effect until it has been approved by the Governor in Council.
- (3) The Minister must give a copy of a final draft water resource plan to the chief executive before it is approved under subsection (2).

230 Insertion of new ss 52A and 52B

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

insert—

52A Effect of water resource plan

- (1) This section applies to a water resource plan approved by the Governor in Council under section 50(2).
- (2) The plan is—
 - (a) declared to be subordinate legislation; and
 - (b) the water resource plan for its plan area.
- (3) The plan expires on 1 September first occurring after the 10th anniversary of the day of its making unless—

- (a) it is sooner repealed or expires; or
 - (b) the expiration of the plan is postponed under section 52B.
- (4) The plan also expires when another water resource plan commences if the other water resource plan declares that it replaces the plan.
- (5) If the expiration of the plan is postponed under section 52B, the plan expires on the new expiry date stated for the plan in the notice about the postponement published under section 52B(8).

Note—

A water resource plan would expire at the end of the day that is the new expiry date. See the *Acts Interpretation Act 1954*, section 18.

- (6) The *Statutory Instruments Act 1992*, part 7 does not apply to the plan.

52B Postponement of expiry of water resource plan up to 20 years

- (1) This section applies if the Minister proposes to postpone the expiry of a water resource plan.
- (2) Before the expiry of the plan, the Minister must publish a notice stating—
- (a) the Minister's intention to postpone the expiry of the plan; and
 - (b) the reasons the Minister is considering postponing the expiry of the plan; and
 - (c) the proposed new expiry date for the plan; and
 - (d) that written submissions may be made by any entity about the proposal to postpone the expiry of the plan; and
 - (e) the day (the *closing day*) by which the submissions must be made and the person to

[s 230]

whom, and the place where, the submissions must be made.

- (3) The closing day can not be earlier than 20 business days after the day the notice is published.
- (4) The Minister must give a copy of the notice to each local government whose local government area includes all or part of the plan area for the plan.
- (5) A local government receiving a copy of the notice under subsection (4) must make it available for inspection by the public.
- (6) The Minister may, before the plan would otherwise expire, decide to postpone the expiry if—
 - (a) the Minister is satisfied the expiry should be postponed; and
 - (b) the Minister reasonably believes the postponement will not adversely affect water entitlement holders or natural ecosystems in the plan area.
- (7) In deciding whether to postpone the expiry, the Minister must consider all of the following—
 - (a) all properly made submissions about the proposal;
 - (b) whether the plan's outcomes are being achieved;
 - (c) whether the plan's objectives, or the strategies for achieving the plan's outcomes, continue to be appropriate for its plan area;
 - (d) any reports about the plan prepared under subdivision 4.

- (8) If the Minister decides to postpone the expiry, the Minister must publish a notice in the gazette stating the new expiry date for the plan.
- (9) A notice under subsection (8) is declared to be subordinate legislation.
- (10) The Minister may postpone the expiry more than once but any postponement can not have the effect of continuing the plan in force for more than 20 years.

231 Amendment of s 62 (Content of draft water use plans)

Section 62(2) from ‘the following’ to ‘schedules’—

omit, insert—

schedules

232 Omission of ch 2, pt 3, div 3, sdivs 4-6

Chapter 2, part 3, division 3, subdivisions 4 to 6—

omit.

233 Amendment of s 106 (Minor or stated amendments of resource operations plan)

Section 106—

insert—

- (d) the amendment is necessary to make the resource operations plan consistent with a water resource plan for which the resource operations plan has effect and is not an amendment to which section 105(3) applies.

234 Replacement of ss 107A and 108

Sections 107A and 108—

omit, insert—

107A Authority to interfere with water under resource operations licence

- (1) A resource operations licence authorises its holder to interfere with the flow of water to the extent necessary to operate the water infrastructure to which the licence applies.
- (2) A resource operations licence can be held only by—
 - (a) the owner of the water infrastructure to which the licence applies; or
 - (b) if the owner of the water infrastructure to which the licence applies is a subsidiary company, the parent company of the subsidiary.

107B Authority to take or interfere with water under distribution operations licence

- (1) A distribution operations licence authorises its holder to take water or interfere with the flow of water to distribute water under water allocations.
- (2) A distribution operations licence can be held only by—
 - (a) the water infrastructure owner; or
 - (b) if the water infrastructure owner is a subsidiary company, the parent company of the subsidiary; or
 - (c) an entity (the *approved nominee*) nominated by the water infrastructure owner and approved under section 107C to be the holder of the licence.
- (3) Subsection (2)(c) applies whether the approved nominee was nominated or approved under section 107C before or after—

- (a) the entity that is the water infrastructure owner became the water infrastructure owner; or
- (b) the licence started to apply to the water infrastructure.

107C Nomination and approval of entity as distribution operations licence holder

- (1) This section applies if any of the following entities (each a *nominator*) gives the chief executive a notice in the approved form nominating an entity (a *nominee*) to be the holder of a distribution operations licence—
 - (a) the water infrastructure owner;
 - (b) if a water authority is, or is to be, dissolved and converted under chapter 4, part 7, to 1 or more entities that are alternative institutional structures—the entity in whom is vested, on the changeover day, the water infrastructure to which the licence is to apply;
 - (c) if the nominee is applying for the licence under section 108A and paragraph (b) does not apply—the entity who is to be the owner of the water infrastructure to which the licence is to apply if and from when the licence is granted;
 - (d) if an application has been made to transfer the licence to the nominee under section 114 and paragraph (b) does not apply—the entity who is to be the owner of the water infrastructure to which the licence is to apply if and from when the licence is transferred.
- (2) The chief executive may approve the nominee to be the holder of the licence only if—

[s 234]

- (a) the chief executive is satisfied the nominee—
 - (i) is a suitable entity to hold the licence; and
 - (ii) can carry out the activities authorised, or to be authorised, under the licence; and
 - (iii) can comply with the conditions, or proposed conditions, of the licence; and
- (b) at least 1 of the following applies—
 - (i) the nominator holds the licence and has carried out the activities authorised under the licence in compliance with the conditions of the licence;
 - (ii) the chief executive is satisfied paragraph (a)(i), (ii) and (iii) apply to the nominator;
 - (iii) the chief executive is satisfied that, if the nominee were to cease to be the licence holder, the nominator could within a reasonable period nominate another nominee to hold the licence.
- (3) However—
 - (a) the approval of the nominee of a nominator mentioned in subsection (1)(c) ends if the application to grant the licence is refused; and
 - (b) the approval of the nominee of a nominator mentioned in subsection (1)(d) ends if the application to transfer the licence lapses or is refused.
- (4) In this section—

changeover day, for dissolution of a water authority, means the day the water authority is dissolved under chapter 4, part 7, division 1.

108 Granting resource operations licences and distribution operations licences

- (1) If a resource operations plan states a process for the granting of a resource operations licence to meet future water requirements, the chief executive must follow and grant the licence in accordance with the process.
- (2) If a resource operations plan states a process for the granting of a distribution operations licence to meet future water distribution requirements, the chief executive must—
 - (a) follow the process; and
 - (b) subject to sections 107B(2)(c) and 107C, grant the licence in accordance with the process.
- (3) Within 30 business days after the chief executive grants the licence, the chief executive must—
 - (a) give the grantee—
 - (i) the licence; and
 - (ii) if the conditions of the licence include conditions to which the grantee did not agree in writing—an information notice about the decision to impose the conditions; and
 - (b) if the grantee of a distribution operations licence is the approved nominee of the water infrastructure owner—give the water infrastructure owner notice of the granting of the licence.

[s 235]

- (4) The licence has effect on the day stated in the licence.
- (5) If the chief executive decides to refuse to approve a nominee to be the holder of a distribution operations licence under section 107C(2), the chief executive must—
 - (a) give the nominee an information notice about the decision; and
 - (b) give the nominator notice of the decision.

235 Amendment of s 108A (Applying for a distribution operations licence other than under a resource operations plan)

Section 108A—

insert—

- (3) If the application is made by the nominee of the water infrastructure owner, the application must also be supported by sufficient information to enable the chief executive to decide whether or not to approve the nominee under section 107C.
- (4) In this section—

person includes the nominee of the water infrastructure owner.

236 Replacement of s 108B (Additional information may be required)

Section 108B—

omit, insert—

108B Additional information may be required

- (1) The chief executive may require either or both of the following to give additional information about the application—
 - (a) the applicant;

- (b) if the applicant is the nominee of the water infrastructure owner—the owner.
- (2) The chief executive may require any information included in the application, or any additional information required under subsection (1), to be verified by statutory declaration.
- (3) If an entity of whom a requirement is made under subsection (1) or (2) fails, without reasonable excuse, to comply with the requirement within the reasonable period stated in the requirement, the application lapses.

237 Amendment of s 111 (Amending a licence for consistency with a plan)

- (1) Section 111(2)—

insert—

- (d) for an amendment of a distribution operations licence held by the approved nominee of the water infrastructure owner—give the owner notice of the amendment.

- (2) Section 111(3), ‘notice’—

omit, insert—

information notice

238 Amendment of s 111A (Amending a licence under a plan process)

- Section 111A(3)—

omit, insert—

- (3) Within 30 business days after the chief executive amends the licence, the chief executive must—
 - (a) give the licence holder—

[s 239]

- (i) an amended licence in the approved form; and
 - (ii) an information notice about the decision to amend the licence; and
- (b) for an amendment of a distribution operations licence held by the approved nominee of the water infrastructure owner—give the owner notice of the amendment.

239 Amendment of s 112 (Other amendments chief executive may make to licence)

(1) Section 112(1)—

omit, insert—

(1) The chief executive may amend a condition of a resource operations licence or a distribution operations licence if the chief executive is satisfied—

- (a) the licence was granted because of a materially false or misleading representation or declaration made, either orally or in writing, by—
 - (i) the licence holder; or
 - (ii) for a distribution operations licence held by the approved nominee of the water infrastructure owner—the owner; or
- (b) either or both of the following have contravened this Act—
 - (i) the licence holder;
 - (ii) for a distribution operations licence held by the approved nominee of the water infrastructure owner—the owner.

(2) Section 112(4)—

omit, insert—

- (4) If the chief executive is satisfied the proposed amendment should be made, the chief executive must—
 - (a) give the holder—
 - (i) an amended licence in the approved form; and
 - (ii) an information notice about the decision to amend the licence; and
 - (b) for an amendment of a condition of a distribution operations licence held by the approved nominee of the water infrastructure owner—give the owner an information notice about the decision to amend the licence.

240 Amendment of s 113 (Minor, stated or agreed amendments of licence)

Section 113(2)—

omit, insert—

- (2) If the chief executive amends a licence under subsection (1), the chief executive must, within 30 business days after amending the licence—
 - (a) give the holder an amended licence in the approved form; and
 - (b) for an amendment of a distribution operations licence held by the approved nominee of the water infrastructure owner—give the owner notice of the amendment.

241 Replacement of ss 114 and 115

Sections 114 and 115—

[s 241]

omit, insert—

114 Applying for transfer of licence

- (1) The holder of a resource operations licence or a distribution operations licence may apply to the chief executive to transfer all or part of the licence to another entity (the *transferee*) that can hold the licence.
- (2) If a distribution operations licence is held by the approved nominee of the water infrastructure owner (the *current infrastructure owner*), the current infrastructure owner may also apply, with or without the consent of the approved nominee, to transfer all or a part of the licence to the transferee.
- (3) The application must be—
 - (a) made to the chief executive in the approved form; and
 - (b) supported by sufficient information to enable the chief executive to decide the application; and
 - (c) accompanied by—
 - (i) the fee prescribed under a regulation; and
 - (ii) if the application is by the approved nominee—the current infrastructure owner’s written consent to the transfer.

115 Additional requirements for transfer of distribution operations licence to nominee

- (1) This section applies to an application to transfer all or part of a distribution operations licence if—
 - (a) the transferee is the nominee of the current infrastructure owner; or

-
- (b) the current infrastructure owner is transferring ownership of the water infrastructure to which the licence or part applies to another entity (the *incoming owner*) and the transferee for the licence or part is the nominee of the incoming owner.
- (2) The application must be—
- (a) accompanied by the written consent of—
- (i) the current infrastructure owner, unless the owner is the applicant; and
- (ii) the incoming owner; and
- (b) supported by sufficient information to enable the chief executive to decide whether or not to approve the nominee under section 107C.

115A Additional information may be required

- (1) The chief executive may require all or any of the following to give additional information about the application—
- (a) the holder of the resource operations licence or a distribution operations licence;
- (b) the transferee;
- (c) for an application to transfer all or part of a distribution operations licence, if relevant—
- (i) the current infrastructure owner; or
- (ii) the incoming owner.
- (2) The chief executive may require information in the application, or any additional information required under subsection (1), to be verified by statutory declaration.
- (3) If an entity of whom a requirement is made under subsection (1) or (2) fails, without reasonable

[s 242]

excuse, to comply with the requirement within the reasonable period stated in the requirement, the application lapses.

242 Replacement of s 117 (Approving application to transfer licence)

Section 117—

omit, insert—

117 Approving application to transfer licence

- (1) If the chief executive decides to approve the application, the chief executive must, within 30 business days after making the decision (the *notice period*)—
 - (a) give the applicant and transferee notice of the decision; and
 - (b) cancel the existing licence and give a new licence to the transferee.
- (2) If the application was for the transfer of all or part of a distribution operations licence, the chief executive must also, within the notice period, give notice of the decision to—
 - (a) the current infrastructure owner, unless the owner was the applicant; and
 - (b) if the transferee is the nominee of the incoming owner—the incoming owner.
- (3) If the application was not to transfer all of a licence, the chief executive must, within the notice period, give the holder of the part (the *remaining part*) of the licence that was not transferred an amended licence for the remaining part.
- (4) The new licence takes effect from the day the notice is given under subsection (1)(a).

243 Amendment of s 118A (Amalgamating licences)

- (1) Section 118A(2), ‘subsection (1) or (1A)’—

omit, insert—

subsection (1) or (2)

- (2) Section 118A—

insert—

- (2A) If an application under subsection (2) relates to a distribution operations licence held by the approved nominee of the water infrastructure owner, the application must also be accompanied by the owner’s written consent to the amalgamation.

- (2) Section 118A(4)(a)—

omit, insert—

- (a) give notice of the amalgamation to—
- (i) the applicant; and
 - (ii) the holder of the other licence; and
 - (iii) if the amalgamation relates to a distribution operations licence mentioned in subsection (4)—the water infrastructure owner; and

- (3) Section 118A(1A) to (5)—

renumber as section 118A(2) to (7).

244 Amendment of s 119 (Cancelling licence)

Section 119(1)(b) and (c)—

omit, insert—

- (b) either of the following has been convicted of an offence against this Act—
- (i) the licence holder;

[s 245]

- (ii) for a distribution operations licence held by the approved nominee of the water infrastructure owner—the owner;
- (c) the licence was granted because of a materially false or misleading representation or declaration made, either orally or in writing, by—
 - (i) the licence holder; or
 - (ii) for a licence mentioned in paragraph (b)(ii)—the owner;
- (d) for a licence mentioned in paragraph (b)(ii)—
 - (i) an application to transfer all or part of the licence has lapsed because the approved nominee has not complied with a requirement under section 115A; and
 - (ii) the water infrastructure owner has requested cancellation of the licence.

245 Amendment of s 119A (Procedure for cancelling licence)

(1) Section 119A(1)—

omit, insert—

- (1) If the chief executive is satisfied a ground exists under section 119 to cancel the licence, the chief executive must—
 - (a) give a show cause notice about the proposed cancellation to the licence holder; and
 - (b) for a distribution operations licence held by the approved nominee of the water infrastructure owner—give a copy of the notice to the water infrastructure owner.

(2) Section 119A(2), editor's note, '*Editor's note*'—

omit, insert—

Note

(3) Section 119A(3)—

omit, insert—

- (3) If the chief executive decides to cancel the licence, the chief executive must, within 10 business days after making the decision, give an information notice about the decision to—
- (a) the licence holder; and
 - (b) for a licence mentioned in subsection (1)(b)— the water infrastructure owner.

246 Amendment of s 119B (Cancelling licence no longer required)

(1) Section 119B(2)—

omit, insert—

- (2) If the chief executive decides to cancel a licence under subsection (1) or (2), the chief executive must, within 30 business days after making the decision, give an information notice about the decision to—
- (a) the licence holder; and
 - (b) for a distribution operations licence held by the approved nominee of the water infrastructure owner— the owner.

(2) Section 119B(3), ‘notice’—

omit, insert—

information notice

(3) Section 119B(1A) to (3)—

renumber as section 119B(2) to (4).

[s 247]

247 Replacement of s 119D (Access for conducting audit reports)

Section 119D—

omit, insert—

119D Access for conducting a relevant audit

- (1) This section applies to any of the following entities—
 - (a) the holder of a resource operations licence;
 - (b) the holder of a distribution operations licence;
 - (c) if a distribution operations licence is held by the approved nominee of the water infrastructure owner—the owner.
- (2) The entity must give an authorised person free and uninterrupted access to the water infrastructure to which the licence applies and any records relating to the water infrastructure for conducting a relevant audit.

Maximum penalty—200 penalty units.

- (3) In this section—

authorised person means a person authorised by the chief executive to participate in conducting a relevant audit.

relevant audit means an audit for preparing an audit report under section 119C.

248 Insertion of new s 121A

After section 121—

insert—

121A Converting particular forfeited or surrendered interim water allocations

- (1) The chief executive may, by gazette notice, convert a forfeited or surrendered interim water allocation managed under a resource operations licence to a water allocation.

Notes—

- 1 An interim water allocation may be forfeited under section 196 or surrendered under section 197.
- 2 For a forfeited or surrendered interim water allocation managed under an interim resource operations licence see section 197A.

- (2) The notice must state—
- (a) the number, recorded in the department's water entitlement registration database, for the interim water allocation; and
 - (b) the following information about the water allocation—
 - (i) its nominal volume;
 - (ii) the location from which, and the purpose for which, the water may be taken under it;
 - (iii) its conditions;
 - (iv) the resource operations plan and the resource operations licence under which it is managed;
 - (v) the priority group to which it belongs.
- (3) On the day the notice is gazetted—
- (a) the interim water allocation ceases to be an interim water allocation and becomes a water allocation with conditions—
 - (i) consistent with the strategies for converted interim water allocations stated in the water resource plan for the

[s 249]

- area to which the water allocation relates and implemented through the resource operations plan for the water resource plan; and
 - (ii) to the extent the strategies do not provide—the chief executive otherwise considers necessary having regard to the plans; and
 - (b) the holder of the interim water allocation becomes the holder of the water allocation; and
 - (c) the registrar must record on the water allocations register details of the water allocation in accordance with the notice.
- (4) The water allocation has effect when it is recorded.
- (5) The chief executive may—
- (a) transfer the water allocation to—
 - (i) the resource operations licence holder; or
 - (ii) an entity prescribed under a regulation; or
 - (b) deal with the water allocation under section 138(6) to (9) as if it were a forfeited water allocation.

249 Amendment of s 122A (Chief executive may approve standard supply contracts)

- (1) Section 122A(4), after ‘granted,’—
insert—
or converted under section 121A,
- (2) Section 122A(4)—
insert—

- (c) for an allocation converted under section 121A—the allocation is held by the chief executive.

250 Amendment of s 132 (Public notice of application to change water allocation)

- (1) Section 132(2)—

omit, insert—

- (2) The chief executive must give the applicant a notice requiring the applicant to publish stated information in a stated period and in a stated way.

- (2) Section 132(3), (4) and (7), ‘notice’—

omit, insert—

stated information

- (3) Section 132(5)—

omit, insert—

- (5) If the stated information has been published as required under subsection (2), the applicant must, within 10 business days after the publication of the information, give the chief executive evidence of the publication.

251 Amendment of s 181 (Public notice of application to amend interim resource operations licence)

- (1) Section 181(2)—

omit, insert—

- (2) The chief executive must give the applicant a notice requiring the applicant to publish stated information in a stated period and in a stated way.

- (2) Section 181(3), (4) and (6), ‘notice’—

[s 252]

omit, insert—

stated information

(3) Section 181(5)—

omit, insert—

(5) Within 10 business days after the stated information is published, the applicant must give the chief executive evidence of the publication.

252 Amendment of s 196 (Forfeiting an interim water allocation)

(1) Section 196(2), from ‘to (9)’—

omit, insert—

to (5) as if the interim water allocation were a water allocation.

(2) Section 196—

insert—

(3) On the day the forfeiture takes effect, the chief executive may deal with the interim water allocation under—

(a) if the interim water allocation is managed under a resource operations licence—section 121A; or

(b) if the interim water allocation is managed under an interim resource operations licence—section 197A.

253 Amendment of s 197 (Surrendering an interim water allocation)

(1) Section 197(3)—

omit.

(2) Section 197(2A)—

renumber as section 197(3).

(3) Section 197—

insert—

- (4) On the day the surrender takes effect, the chief executive may deal with the interim water allocation under—
- (a) if the interim water allocation is managed under a resource operations licence—section 121A; or
 - (b) if the interim water allocation is managed under an interim resource operations licence—section 197A.

254 Insertion of new s 197A

After section 197—

insert—

‘197A Dealing with forfeited or surrendered interim water allocation managed under interim resource operations licence

- (1) This section applies to a forfeited or surrendered interim water allocation managed under an interim resource operations licence.

Note—

For a forfeited or surrendered interim water allocation managed under a resource operations licence see section 121A.

- (2) The chief executive may, after consulting the holder of the interim resource operations licence in the way the chief executive considers appropriate—
- (a) cancel the interim water allocation if the chief executive is satisfied the interim water allocation should be cancelled; or

[s 254]

- (b) deal with the interim water allocation under section 138(6) to (9) as if—
 - (i) the interim water allocation were a water allocation; and
 - (ii) for a surrendered interim water allocation—a reference in the section to a forfeited water allocation were a reference to a surrendered interim water allocation; and
 - (iii) a reference in the section to a resource operations licence were a reference to an interim resource operations licence; or
- (c) transfer the interim water allocation under this section to one of the following (the *proposed transferee*)—
 - (i) the interim resource operations licence holder;
 - (ii) an entity prescribed under a regulation.
- (3) However, the chief executive may only transfer the interim water allocation if—
 - (a) the chief executive gives notice to the proposed transferee about the transfer; and
 - (b) within 20 business days after receiving the notice the proposed transferee makes an application, in the approved form, to the chief executive to transfer the interim water allocation to the proposed transferee.
- (4) If the chief executive cancels the interim water allocation, the chief executive must give notice of the cancellation to the interim resource operations licence holder.
- (5) If subsection (3) has been complied with, the chief executive may transfer the interim water allocation by giving the proposed transferee an

interim water allocation on conditions that have the same effect as the conditions on the interim water allocation immediately before it was forfeited or surrendered.

255 Amendment of s 203 (Definitions for pt 6)

Section 203, definition *priority group*—
omit.

256 Amendment of s 206 (Applying for a water licence)

- (1) Section 206(5)—
omit.
- (2) Section 206(6)—
renumber as section 206(5).

257 Omission of s 206A (Additional requirements for application by petroleum tenure holder)

Section 206A—
omit.

258 Amendment of s 208 (Public notice of application for water licence)

- (1) Section 208(2)—
omit, insert—
 - (2) The chief executive must give the applicant a notice requiring the applicant to publish stated information in a stated period and in a stated way.
- (2) Section 208(4), (5) and (8), ‘notice’—
omit, insert—
stated information

[s 262]

(3) Section 208(6)—

omit, insert—

(6) Within 10 business days after the stated information is published, the applicant must give the chief executive evidence of the publication.

262 Amendment of s 214 (Conditions of water licence)

(1) Section 214(2)(g)—

omit.

(2) Section 214(3)—

omit.

263 Amendment of s 223 (Other transfer of water licence)

(1) Section 223(1) and (2)—

omit, insert—

(1) This section applies if, for a water licence, to take water—

(a) a regulation or resource operations plan states that all or part of the water licence may be—

(i) if the licence attaches to land—transferred so that the whole or the part attaches to other land, whether in or outside Queensland; or

(ii) transferred to a prescribed person; or

(iii) amended to change the location from which the water may be taken or the purpose for which the water may be taken; or

(iv) amalgamated with another licence held or to be held by the transferee; and

(b) a regulation (the *process regulation*) states the process for dealing with an application for the transfer, amendment or amalgamation.

(2) Section 223(3), ‘regulation’—

omit, insert—

process regulation

(3) Section 223(1) to (6), as amended—

renumber as section 223(1) to (5).

265 Amendment of s 382 (Public notice and copies of report)

Section 382(1)(a), from ‘final report’ to ‘website’, second mention—

omit, insert—

final report in the way required by the chief executive

266 Amendment of s 386 (Publishing approval and making report available)

Section 386(1)(a), from ‘approval’ to ‘website’, second mention—

omit, insert—

approval in the way required by the chief executive

267 Amendment of s 391 (Minor or agreed amendments of approved report)

Section 391(5)(a)—

omit, insert—

(a) publish a notice of the amendment in a stated period and in a stated way; and

[s 268]

268 Amendment of s 393 (Other amendments)

Section 393(6), from ‘about’ to ‘website’, second mention—

omit, insert—

about the amendment in the way required by the chief executive

269 Amendment of s 552 (Public notice of proposal to establish a water authority)

Section 552(1), from ‘establishment’ to ‘area’, second mention—

omit, insert—

establishment—

- (a) in the gazette; and
- (b) in another way the chief executive considers appropriate having regard to the intended audience for the notice

270 Amendment of s 556 (Amending establishment regulation)

Section 556(2)—

omit, insert—

- (2) Before an establishment regulation for a water authority is amended, the chief executive must publish notice of the amendment—
 - (a) in the gazette; and
 - (b) in another way the chief executive considers appropriate having regard to the intended audience for the notice.

271 Amendment of s 598 (Composition of board for water authorities)

Section 598(3)—

omit.

272 Amendment of s 598A (Changing the composition of a board)

Section 598A(2)—

omit, insert—

- (2) The chief executive must publish notice of the proposed change—
 - (a) in the gazette; and
 - (b) in another way the chief executive considers appropriate having regard to the intended audience for the notice.

273 Omission of s 599 (Composition of board for Gladstone Area Water Board)

Section 599—

omit.

274 Amendment of s 601 (Chairperson)

Section 601(1) and (2)—

omit, insert—

- (1) The chairperson of a category 1 water authority's board is the director chosen as chairperson by the chief executive.
- (2) The chairperson of a category 2 water authority's board is the director chosen as chairperson by the directors comprising the board.

275 Amendment of s 609 (Removal of board)

(1) Section 609(c)—

omit.

[s 276]

- (2) Section 609(d) and (e)—
renumber as section 609(c) and (d).

276 Insertion of new ch 4, pt 7, div 1, sdiv 1 hdg

After chapter 4, part 7, division 1 heading—

insert—

Subdivision 1 General procedure

277 Amendment of s 692 (Public notice of proposed amalgamation or dissolution)

- (1) Section 692(1), from ‘dissolution in’ to ‘area or areas’—

omit, insert—

dissolution—

- (a) in the gazette; and
- (b) in another way the chief executive considers appropriate having regard to the intended audience for the notice

- (2) Section 692(3)(a), ‘subsection (1)(c)’—

omit, insert—

subsection (1)(b)

278 Insertion of new ch 4, pt 7, div 1, sdiv 2 hdg

After section 694—

insert—

Subdivision 2 Additional procedures for conversion to an alternative institutional structure

279 Insertion of new s 695A

After section 695—

insert—

695A Closed water activity agreement

- (1) This section applies for a water authority if—
 - (a) the water authority carries out water activities including water supply or drainage for an authority area; and
 - (b) all the registered owners of the land in the authority area enter into a written agreement complying with subsection (2) (a ***closed water activity agreement***) about carrying out the water activities for the land.
- (2) The agreement must state—
 - (a) the land and works to which the agreement applies; and
 - (b) if the water activities include water supply—
 - (i) the water to which the agreement applies; and
 - (ii) the arrangements for supplying the water to each registered owner's land; and
 - (c) the arrangements for the maintenance or replacement of the works and the sharing of the cost of the maintenance or replacement; and

[s 280]

- (d) the arrangements for accessing the works;
and
 - (e) provisions for the cancellation of the agreement with the consent of all parties.
- (3) The agreement has effect only when the water authority and its authority area are dissolved under this division.
- (4) While the agreement has effect, the obligations under the agreement on each party attach to the party's land and bind the party and the party's successors in title to the land.
- (5) Section 1001(1) to (3) applies to the registration of the agreement as if—
- (a) a reference in the subsections to the private water supply agreement or agreement were a reference to the closed water activity agreement; and
 - (b) a reference in the subsections to the parties were a reference to the parties to the closed water activity agreement; and
 - (c) a reference in the subsections to relevant land were a reference to the land mentioned in subsection (1)(b).

280 Amendment of s 696 (Procedure before authority is dissolved to convert to alternative institutional structures)

Section 696—

insert—

- (2) For subsection (1)(a), an alternative institutional structure consisting of all the parties to a closed water activity agreement is established if—
- (a) the parties have entered the agreement; and

- (b) section 1001(1) and (2), as applied under section 695A(5), has been complied with.
- (3) To remove any doubt, it is declared, for the conversion of a water authority to an alternative institutional structure consisting of all the parties to a closed water activity agreement, that nothing in this Act or the agreement or another document prevents the State from obtaining an indemnity or payment mentioned in subsection (1)(b) from any 1 or more of the parties.

281 Amendment of s 703 (Continuing legal proceedings)

Section 703—

insert—

- (3) Also, if a former water authority is converted to an alternative institutional structure consisting of all the parties to a closed water activity agreement, a legal proceeding against the authority that has not been finished before the changeover day may be continued and finished against any 1 or more of the parties.
- (4) Subsection (3) applies despite section 702(1).

282 Omission of s 810 (Using water contrary to approved land and water management plan)

Section 810—

omit.

284 Amendment of s 967 (Development under Sustainable Planning Act 2009 relating to taking or interfering with water)

- (1) Section 967(1), ‘Subsections (2) and (3) apply’—

omit, insert—

[s 285]

Subsection (2) applies'

- (2) Section 967(4) to (6)—
renumber as section 967(5) to (7).
- (3) Section 967(3)—
omit, insert—
 - (3) Subsection (4) applies if—
 - (a) a person is required to be authorised under this Act to take or interfere with water; and
 - (b) a development approval is required for operational work for the taking or interfering.
 - (4) The development approval—
 - (a) authorises the person to carry out development under the approval only if the person is authorised under this Act to take or interfere with the water; but
 - (b) does not, of itself, entitle the person to a water entitlement.

285 Amendment of s 1007 (Records to be kept in registries)

- (1) Section 1007(3) to (6)—
omit.
- (2) Section 1007(7) and (8)—
renumber as section 1007(3) and (4).

286 Amendment of s 1014 (Regulation-making power)

- Section 1014(2)(ca) and (cb)—
omit.

287 Amendment of s 1162 (Grid customers)

Section 1162(b)—

omit, insert—

- (b) Tarong Energy Corporation Limited (ACN 078 848 736) (*Tarong Energy*).

Note for paragraph (b)—

Under the *Government Owned Corporations (Generator Restructure) Regulation 2011*, Tarong Energy was divested of the assets shown in the Tarong business unit asset schedule and the assets were transferred to Stanwell Corporation Limited (ACN 078 848 674) as the successor in law of Tarong Energy for the Tarong business unit.

288 Insertion of new ch 9, pt 6

Chapter 9—

insert—

Part 6 **Transitional and
validation provisions
for Land, Water and
Other Legislation
Amendment Act 2013**

1236 Continuation of existing water resource plans

- (1) To remove any doubt, it is declared that sections 52A and 52B apply to all existing water resource plans.
- (2) Despite section 52A(3)—
 - (a) a delayed water resource plan continues in force but expires on 31 August 2014; and
 - (b) a Queensland Murray-Darling plan continues in force but expires on 30 June 2019.

[s 288]

- (3) However, a delayed water resource plan or a Queensland Murray-Darling plan also expires when another water resource plan commences if the other water resource plan declares that it replaces the plan.
- (4) This section does not prevent a delayed water resource plan or Queensland Murray-Darling plan from being repealed before the expiry of the plan.
- (5) In this section—

delayed water resource plans means the following water resource plans—

- *Water Resource (Barron) Plan 2002*
- *Water Resource (Boyne River Basin) Plan 2000*
- *Water Resource (Burnett Basin) Plan 2000*
- *Water Resource (Pioneer Valley) Plan 2002.*

existing water resources plans means a water resource plan in force immediately before this section commences.

Queensland Murray-Darling plans means the following water resource plans—

- *Water Resource (Border Rivers) Plan 2003*
- *Water Resource (Condamine and Balonne) Plan 2004*
- *Water Resource (Moonie) Plan 2003*
- *Water Resource (Warrego, Paroo, Bulloo and Nebine) Plan 2003.*

1237 Land and water management plans

- (1) If, immediately before the commencement of this section, an application for the approval of, or deferral of the requirement for, a land and water

management plan had not been decided, the application lapses.

- (2) If a resource operations plan requires a land and water management plan be approved for land before water can be used on the land, the requirement is of no effect and the water may be used on the land despite the requirement in the plan.

1238 Changes affecting category 1 water authority boards

The board for the Gladstone Area Water Board continues to be comprised under repealed section 599 until the composition of the board is changed under section 598A.

1239 Validation relating to Mount Isa Water Board

- (1) This section applies for a person purportedly chosen as chairperson of the Mount Isa Water Board by the chief executive before the commencement of this section.
- (2) The person is declared to always have been validly chosen as chairperson despite previous section 601.
- (3) Anything done or omitted to be done by the person that would have been valid and lawful under this Act had the person been validly chosen is declared to always have been valid and lawful.
- (4) In this section—

previous section 601 means section 601 as in force immediately before the amendment of that section under the *Land, Water and Other Legislation Amendment Act 2013*.

[s 289]

1240 Removal of particular records from registries

- (1) The registrar of titles may remove a record about a water licence, or an interim water allocation, attaching to particular land from any register the registrar was required to include the record in under previous section 1007.
- (2) The registrar of water allocations may remove a record about a land and water management plan being required for the use of water from any register the registrar was required to include the record in under previous section 1007.
- (3) In this section—
previous section 1007 means section 1007 as in force immediately before the amendment of that section under the *Land, Water and Other Legislation Amendment Act 2013*.

1241 Amendment of subordinate legislation does not affect powers of Governor in Council

The amendment of subordinate legislation by the *Land, Water and Other Legislation Amendment Act 2013* does not affect the power of the Governor in Council to further amend the legislation or to repeal it.

289 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *allocation notice*, *alternative institutional structure*, *priority group* and *water monitoring bore*—
omit.
- (2) Schedule 4—
insert—
allocation notice—

- (a) for removal of quarry material—means an allocation notice under chapter 2, part 9; or
- (b) for chapter 4, part 7—see section 696(1)(c).

alternative institutional structure includes—

- (a) a cooperative; and
- (b) a corporation; and
- (c) a trust; and
- (d) an institutional structure consisting of all the parties to a closed water activity agreement.

approved nominee, for chapter 2, part 4, division 3, see section 107B(2)(c).

closed water activity agreement see section 695A(1)(b).

current infrastructure owner, for chapter 2, part 4, division 3, subdivision 4, see section 114(2).

environmental authority see the *Environmental Protection Act 1994*, schedule 4.

incoming owner, for chapter 2, part 4, division 3, subdivision 4, see section 115(1)(b).

nominator, for chapter 2, part 4, division 3, see section 107C(1).

nominee, for chapter 2, part 4, division 3, see section 107C(1).

priority group, for water allocations managed under a resource operations licence, means the allocations that have the same water allocation security objective.

transferee, for chapter 2, part 4, division 3, subdivision 4, see section 114(1).

water infrastructure owner, for a provision about a licence or a proposed licence, means the owner

[s 289]

of the water infrastructure to which the licence or proposed licence applies or will apply.

water monitoring bore see section 362.

- (3) Schedule 4, definition *community service obligations*, paragraph (b)(i)—

omit, insert—

(i) a direction by the Minister; or

- (4) Schedule 4, definition *establishment regulation*, ‘section 598’—

omit, insert—

section 548

- (5) Schedule 4, definition *publish*, paragraph 2, from ‘section’ to ‘means’—

omit, insert—

section 22, 26, 29 or 37, means

- (6) Schedule 4, definition *publish*, paragraph 3—

omit, insert—

3 *Publish*, for information or a notice under another provision of this Act, means to publish the information or notice—

- (a) if the provision states the information or notice must be published in the way required by the chief executive—in the way the chief executive, having regard to the intended audience for the information or notice, requires; or
- (b) if the provision states the information or notice must be published in another way—in the way stated in the provision; or
- (c) otherwise—in the way the person authorised or required to publish the information or notice considers appropriate having regard

to the intended audience for the information or notice.

- (7) Schedule 4, definition *water allocation*, after 'take water'—
insert—

, and includes an authority to take water converted under section 121A

Division 3 Amendments commencing by proclamation

289A Amendment of s 20 (Authorised taking of, or interference with, water without water entitlement)

- (1) Section 20—

insert—

(6B) A person may interfere with water if—

- (a) the interference is a diversion of a watercourse and is associated with a resource activity; and
- (b) the impacts of the interference were assessed as part of a grant of an environmental authority for the resource activity; and
- (c) the environmental authority was granted with a condition about the diversion of the watercourse.

- (2) Section 20(11)—

insert—

resource activity see the *Environmental Protection Act 1994*, section 107.

[s 290]

290 Replacement of s 20 (Authorised taking of, or interference with, water without water entitlement)

Section 20—

omit, insert—

Division 1A Authorised taking of, or interference with, water without water entitlement

Note—

See, however, section 972C (Offence to take or interfere with water if development permit required).

20 General authorisations

- (1) A person may do the following—
 - (a) take water for a public purpose in an emergency situation;
 - (b) take water for fighting a fire;
 - (c) take water for undertaking routine testing of firefighting equipment;
 - (d) take, or interfere with, water to construct a bore to be used for firefighting;
 - (e) take water from a watercourse, lake or spring for camping purposes;
 - (f) take water from a watercourse, lake or spring for watering travelling stock;
 - (g) interfere with overland flow water.
- (2) A person may, subject to any relevant alteration or limitation prescribed under a moratorium notice, water resource plan or wild river declaration, do the following—
 - (a) take water if doing so is necessary to carry out an activity prescribed under a regulation;

- (b) take overland flow water for any purpose;
 - (c) take or interfere with subartesian water for any purpose.
- (3) However—
- (a) subsection (2) does not apply for subartesian water if a regulation under section 1046 regulates the taking of or interfering with the water; and
 - (b) a person's right to take or interfere with water under the regulation is subject any relevant alteration or limitation prescribed under a moratorium notice or wild river declaration.
- (4) A person may interfere with water if—
- (a) the interference is a diversion of a watercourse and is associated with a resource activity; and
 - (b) the impacts of the interference were assessed as part of a grant of an environmental authority for the resource activity; and
 - (c) the environmental authority was granted with a condition about the diversion of the watercourse.
- (5) In this section—
- resource activity* see the *Environmental Protection Act 1994*, section 107.

20A Land owners

- (1) An owner of land on which there is water collected in a dam across a watercourse or lake may take the water for stock or domestic purposes.

[s 290]

- (2) An owner of land adjoining a watercourse, lake or spring may take water from the watercourse, lake or spring for stock or domestic purposes.
- (3) However, the water can not be taken for domestic purposes if the land is—
 - (a) declared under a regulation; and
 - (b) subdivided after the regulation is made.
- (4) An owner of land on which there is overland flow water or overland flow water that has been collected into a dam, may take the water for stock or domestic purposes.
- (5) An owner of land may take water from a watercourse, lake or spring for stock or domestic purposes if—
 - (a) for a watercourse, lake or spring located in the plan area for a water resource plan—the water is taken from a location, and in the way, stated in the plan; or
 - (b) otherwise—the water is taken from a location, and in the way, prescribed under the regulation.
- (6) In this section—

land includes any land contiguous with the land adjoining the watercourse, lake or spring if all the land is owned by the same owner.

20B Aboriginal and Torres Strait Islander parties

- (1) An Aboriginal party or Torres Strait Islander party may, in the area of the State for which the person is an Aboriginal or Torres Strait Islander party, take or interfere with water for traditional activities or cultural purposes.
- (2) In this section—

Aboriginal party see the *Aboriginal Cultural Heritage Act 2003*, section 35.

cultural purpose means an activity, other than a commercial activity, that supports the maintenance or protection of the following—

- (a) Aboriginal cultural heritage within the meaning of the *Aboriginal Cultural Heritage Act 2003*, section 8;
- (b) Torres Strait Islander cultural heritage within the meaning of the *Torres Strait Islander Cultural Heritage Act 2003*, section 8.

Torres Strait Islander party see the *Torres Strait Islander Cultural Heritage Act 2003*, section 35.

traditional activities, for an Aboriginal party or Torres Strait Islander party, means any of the following activities the party carries out in accordance with Aboriginal tradition or Island custom—

- (a) hunting, fishing, gathering or camping;
- (b) performing rites or other ceremonies;
- (c) visiting sites of significance.

20C Particular entities

- (1) A petroleum tenure holder may take or interfere with water to construct—
 - (a) a water observation bore within the meaning of the *Petroleum Act 1923* or *Petroleum and Gas (Production and Safety) Act 2004*; or
 - (b) a water monitoring bore.
- (2) A constructing authority or water service provider may take water to operate public showers or toilets.

[s 290]

- (3) A constructing authority may take water to construct or maintain infrastructure if—
 - (a) the construction or maintenance is lawful; and
 - (b) the taking of water for that purpose is prescribed under a regulation; and
 - (c) the constructing authority complies with the following conditions—
 - (i) those prescribed under a regulation; or
 - (ii) those fixed by the chief executive, by notice given to the constructing authority, about the taking of water.
- (4) The conditions may do all or any of the following—
 - (a) limit the volume of water the constructing authority may take in a year for a particular project;
 - (b) limit the volume of water the constructing authority may take from a particular source at a particular location during a stated period;
 - (c) require the constructing authority to give the chief executive notice of the constructing authority's intention to take water from a particular source;
 - (d) require the constructing authority to take the water only through a meter of a type approved by the chief executive;
 - (e) require the constructing authority to give a written report to the chief executive about stated matters for the water taken;

Examples of matters about which a report may be required—

- the locations from which water was taken

- the source from which the water was taken
 - the volume of water taken from a source
 - the day on which the water was taken
- (f) require the constructing authority to obtain written approval from the operator of a water supply scheme before taking water managed under an interim resource operations licence, resource operations licence or distribution operations licence.

291 Amendment of s 26 (Moratorium notices)

- (1) Section 26(8)(d)—
omit.
- (2) Section 26(8)(e)—
renumber as section 26(8)(d).

292 Amendment of s 46 (Content of draft water resource plans)

- (1) Section 46(2)(c) to (l)—
renumber as section 42(2)(d) to (m).
- (2) Section 46(2)—
insert—
- (c) details of locations where, and the way in which, taking water from a watercourse, lake or spring for stock or domestic purposes is intended to be regulated;

292A Amendment of ch 2, pt 6, div 2, sdiv 2 (Contents and conditions of water licence)

Chapter 2, part 6, division 2, subdivision 2, heading, ‘Contents’—
omit, insert—

[s 292B]

Contents, terms

292B Amendment of s 213 (Contents of water licence)

Section 213(1)(a), 'be granted for a stated period'—

omit, insert—

state the term of the licence

292C Insertion of new s 213A

Chapter 2, part 6, division 2, subdivision 2—

insert—

213A Term of water licence

- (1) A water licence expires at the end of 30 June 2111.
- (2) However, if a water resource plan, a resource operations plan or a wild river declaration states a day for the expiry of a water licence granted by the chief executive in accordance with a process mentioned in section 212(1), the licence expires on—
 - (a) if the process was stated in a water resource plan—at the end of the day stated, in the plan, for the expiry of the licence; or
 - (b) if the process was stated in a resource operations plan—at the end of the day stated, in the plan, for the expiry of the licence; or
 - (c) if the process was stated in a wild river declaration—at the end of the day stated, in the declaration, for the expiry of the licence.
- (3) The day stated for the expiry of a water licence under subsection (2) can not be

changed to an earlier day after it is first stated for the licence in a water resource plan, a resource operations plan or a wild river declaration.

- (4) This section does not prevent a water licence from being cancelled or surrendered.

292D Omission of ch 2, pt 7 (Catchment areas)

Chapter 2, part 7—

omit.

293 Amendment of s 266 (Applying for permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)

- (1) Section 266, heading, ‘destroy vegetation, excavate’—

omit, insert—

excavate

- (2) Section 266(1)—

omit, insert—

- (1) A person may apply to the chief executive for a permit to do either or both of the following activities—

- (a) excavate in a watercourse, lake or spring;
(b) place fill in a watercourse, lake or spring.

- (3) Section 266(4)(b)(i)—

omit.

- (4) Section 266(4)(b)(ii) and (iii)—

renumber as section 266(4)(b)(i) and (ii).

[s 294]

294 Amendment of s 268 (Criteria for deciding application for a permit to destroy vegetation, excavate or place fill in a watercourse, lake or spring)

- (1) Section 268, heading, from ‘for a permit’—
omit.
- (2) Section 268(b) and (c)—
omit, insert—
 - (b) the quantity and type of material to be excavated or placed;
- (3) Section 268(e)—
omit, insert—
 - (e) the quantity and type of vegetation that would be destroyed as a necessary and unavoidable part of the proposed excavation or placing of fill (*affected vegetation*);
 - (ea) the position in the watercourse, lake or spring of the proposed excavation or placing of fill and any affected vegetation;
- (4) Section 268(a) to (ea), as amended—
renumber as section 268(a) to (e).

295 Amendment of s 311 (Production of licence to authorised officer)

Section 311(5)—

omit, insert—

- (5) Subsection (3) does not apply to the individual who is—
 - (a) carrying out an activity under the *Mineral Resources Act 1989* if the activity would not result in a water bore being left as a functional bore for the supply of water at the end of the activity; or

- (b) carrying out an activity under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.

296 Amendment of s 313 (Records of water bores drilled)

Section 313(3), from ‘30 business’ to ‘the water bore’—

omit, insert—

60 business days after the day the drilling of the water bore starts

297 Amendment of s 746 (Power to enter land to monitor compliance)

- (1) Section 746(2), ‘other resources’—

omit, insert—

quarry material

- (2) Section 746(2)(a), ‘resource’—

omit, insert—

quarry material

298 Amendment of s 748 (Power to enter land to search for unauthorised activities)

Section 748(1)(c), ‘other resources’—

omit, insert—

quarry material

299 Amendment of s 814 (Destroying vegetation, excavating or placing fill without permit)

- (1) Section 814, heading, ‘Destroying vegetation, excavating’—

omit, insert—

Excavating

[s 299]

(2) Section 814(1)—

omit, insert—

(1) A person must not do either of the following activities unless the person has a permit under section 269 to carry out the activity—

- (a) excavate in a watercourse, lake or spring;
- (b) place fill in a watercourse, lake or spring.

Maximum penalty—1665 penalty units.

(3) Section 814(2)—

omit, insert—

(2) Subsection (1) does not apply to the excavation or placing of fill—

(a) that is permitted or required, or happens as a necessary and unavoidable part of some other activity that is permitted or required under—

- (i) a licence, permit or other authority under another section of this Act; or
- (ii) a development permit for prescribed assessable development; or

(b) that is permitted or required under the *River Improvement Trust Act 1940*; or

(c) that happens as a necessary and unavoidable part of extracting quarry material or forest products under the *Forestry Act 1959*; or

(d) that happens as a necessary and unavoidable part of the construction of works that are self-assessable development and involve the taking or interfering with water in a watercourse, lake or spring; or

(e) that is required or happens as a necessary and unavoidable part of some other activity that is required because of an emergency

endangering either of the following, and for which notice is given to the chief executive as soon as practicable after starting to carry out the activity—

- (i) the life or health of a person;
 - (ii) the water quality or physical integrity of a watercourse, lake or spring; or
 - (f) in a watercourse, lake or spring prescribed under a regulation; or
 - (g) in a watercourse, lake or spring in an area prescribed under a regulation; or
 - (h) happening within the quantity limits prescribed under a regulation; or
 - (i) permitted under a regulation.
- (4) Section 814(5), definition *prescribed assessable development*, paragraphs (a) and (b), ‘prescribed under the *Sustainable Planning Act 2009*, section 232(1)’—

omit.

300 Amendment of s 816 (Unauthorised water bore activities)

- (1) Section 816(2)(b), ‘the *Petroleum Act 1923* or’—

omit.

- (2) Section 816(2)—

insert—

- (d) carrying out an activity under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004*.

300A Amendment of s 966 (Additional criteria for assessing development applications)

- (1) Section 966(1)(d) and (2)(d)—

omit.

[s 301]

(2) Section 966(3) to (5)—

omit, insert—

(3) Subsection (2) does not limit section 282 or chapter 6, part 5, division 2 of the *Sustainable Planning Act 2009*.

301 Replacement of ch 8, pt 2

Chapter 8, part 2—

omit, insert—

Part 2 Relationship with Planning Act

Division 1 Development applications

Subdivision 1 Additional provisions for making development applications

966 Applications for the removal of quarry material

A development application for the removal of quarry material from land leased under the *Land Act 1994* must be supported by—

- (a) the written consent of the lessee of the land to arrangements about the route the applicant may use across the lessee's land for the removal of the quarry material; or
- (b) if the lessee and the applicant can not agree on arrangements—the arrangements decided by a Magistrates Court.

967 Applications for levees

- (1) This section applies—
 - (a) for a development application for the construction of a new levee or the modification of an existing levee; and
 - (b) for the purpose of minimising the adverse impacts levees could have on overland flow water, the catchment, landholders, communities and land planning and emergency procedures.
- (2) A regulation may make a provision about how the application may, or must, be made or assessed by an assessing authority.
- (3) For example, the regulation may—
 - (a) prescribe matters the applicant may, or must, take into account in making the application; or
 - (b) state a code against which the application may, or must, be assessed by an assessing authority.

Subdivision 2 Additional assessment criteria

968 Chief executive as assessing authority or advice agency

- (1) This section applies if the chief executive is an assessing authority or advice agency for a development application for—
 - (a) operational work for the taking of or interfering with water; or
 - (b) the removal of quarry material; or

[s 301]

- (c) operational work in a drainage and embankment area prescribed under section 1014(2)(h) or a wild river floodplain management area or wild river special floodplain management area.
- (2) The chief executive must, in exercising jurisdiction for the application, assess the application against the purposes of this Act to the extent they relate to the following—
- (a) for development mentioned in subsection (1)(a)—the taking of or interfering with water;
 - (b) for development mentioned in subsection (1)(b)—quarry material;
 - (c) for development mentioned in subsection (1)(c)—the protection of watercourses and water in watercourses.

969 New or existing levee

- (1) This section applies if the chief executive is an assessing authority or advice agency for a development application for—
- (a) the proposed construction of a new levee; or
 - (b) the proposed modification of an existing levee.
- (2) The chief executive must, in exercising jurisdiction for the application, assess the application against the purposes of the Act to the extent they relate to any of the following—
- (a) the impacts of the proposed construction or modification on the catchment in which the levee would be, or is, situated;
 - (b) the benefits of the proposed construction or modification for—

- (i) the individual or entity applying to construct or modify the levee; or
- (ii) any nearby community;
- (c) the possible adverse impacts of the proposed construction or modification on landholders in the catchment, including the risk of levee failure;
- (d) the implications of the proposed construction or modification for land planning and emergency management procedures;
- (e) whether any structural, land planning or emergency management measures could be taken to mitigate the possible adverse impacts of the proposed construction or modification.

970 Other assessment criteria and decision stage unaffected by subdivision

This subdivision does not limit section 282 or chapter 6, part 5, division 2 of the Planning Act.

Subdivision 3 Additional provisions for wild river areas

971 Interfering with overland flow water in particular areas

- (1) This section applies to a development application—
 - (a) for operational work that is or involves interfering with overland flow water; and
 - (b) that does not involve prohibited development; and

[s 301]

- (c) to the extent the application relates to operational work in a wild river floodplain management area or wild river special floodplain management area—
 - (i) for specified works in the area; or
 - (ii) stated in the wild river declaration for the area to be assessable development; and
 - (d) despite the Planning Act, chapter 6, part 3, division 4 and sections 313, 314 and 326.
- (2) For the application, all assessing authority decisions must comply with the applicable code mentioned in the wild river declaration for the area.

972 Operational work

- (1) This section applies to a development application, other than one to which section 971 applies—
- (a) for operational work in a wild river area that is or allows taking or interfering with water; and
 - (b) that does not involve prohibited development; and
 - (c) despite the Planning Act, chapter 6, part 3, division 4 and sections 313, 314 and 326.
- (2) For the application, all assessing authority decisions must comply with the applicable code mentioned in the wild river declaration for the area.

972A Removal of quarry material

- (1) This section applies to a development application for development in a wild river area that is or

involves the removal of quarry material for which an allocation notice is required under chapter 2, part 9.

- (2) For the application, all assessing authority decisions must comply with the applicable code mentioned in the wild river declaration for the area.

Subdivision 4 Miscellaneous

972B When an applicant may appeal to Land Court

- (1) This section applies if—
 - (a) a person makes a development application for operational work; and
 - (b) the work is related to an activity authorised under the *Mineral Resources Act 1989* if the operations allow the taking or interfering with water; and
 - (c) the applicant has applied under the *Mineral Resources Act 1989* for a mining tenement or other authorisation to carry out the work.
- (2) Despite the Planning Act, chapter 7, if the applicant appeals against a decision about the application, the appeal may be to the Land Court.

Division 2 Development permits and development approvals

972C Offence to take or interfere with water if development permit required

- (1) This section applies if—

[s 301]

- (a) a person is authorised or required to be authorised under this Act to take or interfere with water; and
 - (b) under the Planning Act, a development permit is required for works associated with the taking or interfering.
- (2) The person must not take or interfere with the water, unless the person has obtained the development permit.

Maximum penalty—1665 penalty units.

972D Additional rights for permits for operational work

- (1) A development permit, to the extent it relates to operational work for taking or interfering with water, or the removal of quarry material, from a watercourse or lake, is taken to include a right to use and occupy the part of the watercourse or lake—
- (a) that forms all or part of the boundary of the land to which the development permit attaches; and
 - (b) on which the works are situated.
- (2) An owner of land carrying out operational work that involves taking water from a watercourse, lake or spring under section 20A(2) and is self-assessable development, is taken to have a right to use and occupy the part of the watercourse or lake—
- (a) that forms all or part of the boundary of the owner's land; and
 - (b) on which the works are situated.
- (3) Operational work that allows taking or interfering with water in a watercourse, lake or spring, other

than under a relevant provision, and is self-assessable development, is taken to include a right to use and occupy the part of the watercourse or lake on which the operations are situated.

(4) In this section—

relevant provision means any of the following—

- (a) section 20(1)(a) to (f);
- (b) section 20A(1), (2) or (5);
- (c) section 20B(1);
- (d) section 20C(1) or (2).

972E Restriction on development approval for operational work

(1) This section applies if—

- (a) a person is required to be authorised under this Act to take or interfere with water; and
- (b) a development approval is required for operational work for the taking or interfering.

(2) The development approval—

- (a) authorises the person to carry out development under the approval only if the person is authorised under this Act to take or interfere with the water; but
- (b) does not, of itself, entitle the person to a water entitlement.

972F Allocation of quarry material is subject to approval under Planning Act

- (1) An allocation notice authorises the allocation holder, during the period for which the allocation notice is in force, to access quarry material.
- (2) However, the holder must not remove any quarry material under the allocation notice until the holder has obtained a development permit for the removal.

Division 3 Directions by chief executive

Subdivision 1 Direction powers

972G Relationship with Planning Act

This subdivision applies despite the Planning Act.

972H Modification or removal of works

- (1) This section applies to works—
 - (a) that are used, or could be used, for taking or interfering with water; and
 - (b) that, if the works were to be constructed, are either—
 - (i) works for which a development application would be required; or
 - (ii) works that would be self-assessable development.
- (2) The chief executive may give all or any of the following persons a show cause notice as to why the person should not be required to modify or remove the works—

- (a) the holder of a water entitlement under which the works are used for taking or interfering with water;
 - (b) a person who has held a water entitlement under which the works were used for taking or interfering with water;
 - (c) the owner of the land on which the works are situated.
- (3) If, after considering any properly made submissions, the chief executive is still satisfied the works should be modified or removed, the chief executive may give the person a notice directing the person to modify or remove the works.

972I Removal of quarry material

- (1) The chief executive may give the holder of an allocation notice a show cause notice as to why the holder should not be required to change the way quarry material is removed.
- (2) If, after considering any properly made submissions, the chief executive is still satisfied the change should be made, the chief executive may give the holder a notice directing the holder to make the change.

972J Modification or removal of levees

- (1) This section applies to a levee—
 - (a) that is used, or could be used, for taking or interfering with water; and
 - (b) that, if the levee were to be constructed or modified, is either—
 - (i) a levee for which a development application would be required; or

[s 301]

- (ii) a levee that would be self-assessable development.
- (2) The chief executive may give the owner of the land on which the levee is situated a show cause notice as to why the owner should not be required to modify or remove the levee.
- (3) If, after considering any properly made submissions, the chief executive is still satisfied the levee should be modified or removed, the chief executive may give the owner a notice directing the owner to modify or remove the levee.

Subdivision 2 Effect of directions

972K Application of sdiv 2

This subdivision applies if a direction is given under subdivision 1.

972L Direction is a compliance notice

For this Act, the direction is taken to be a compliance notice.

972M When direction takes effect

The direction takes effect on the later of the following—

- (a) at the end of the period to appeal against the direction as a compliance notice;
- (b) if an appeal is made, when the appeal is decided if the decision is to confirm the giving of the direction.

972N Effect on development permit

- (1) Any development permit to which directions relate is changed to include the direction.
- (2) If the direction is inconsistent with any other provision of the development permit, the direction prevails to the extent of the inconsistency.

972O Offence to fail to comply with direction

A person to whom the direction is given must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—1665 penalty units.

302 Amendment of s 1014 (Regulation-making power)

- (1) Section 1014(2)—

insert—

- (n) provide for the control and management of the construction of new levees and the modification of existing levees to minimise the adverse impacts levees have on overland flow water, the catchment, landholders, communities and land planning and emergency procedures.

303 Insertion of new ch 9, pt 6, div 1, hdg

Chapter 9, part 6, after heading—

insert—

Division 1

Miscellaneous transitional and validation provisions

[s 303A]

303A Insertion of new s 1235

Chapter 9, part 6—

insert—

1235 Term of existing water licence

- (1) Subject to any cancellation or surrender of an existing water licence, the licence expires under section 213A despite any period stated on the licence as being the period for which the licence is granted.
- (2) Also, section 213A(2) does not apply to an existing water licence granted by the chief executive in accordance with a process mentioned in section 212(1).
- (3) In this section—

existing water licence means a water licence in force immediately before the commencement of this section.

304 Insertion of new s 1242

Chapter 9, part 6—

insert—

1242 References to section 20 of this Act

- (1) A reference in another Act or a document to section 20 as in force immediately before the replacement of that section under the amending Act (the *replaced section*) may, if the context permits, be taken as a reference to any provision of this Act, chapter 2, part 2, division 1A all or part of which corresponds, or substantially corresponds, to the replaced section.
- (2) To remove any doubt, it is declared that for the *Acts Interpretation Act 1954*, section 14H, the Act, chapter 2, part 2, division 1A as inserted under the amending Act, part 19 is a remake of

section 20 as in force immediately before the commencement of section 290 of the amending Act.

(3) In this section—

amending Act means the *Land, Water and Other Legislation Act 2013*.

305 Insertion of new ch 9, pt 6, divs 2 and 3

After section 1242—

insert—

Division 2 Transitional provisions about the destruction of vegetation in a watercourse, lake or spring

1243 Definitions for div 2

In this division—

commencement means the commencement of the provision in which the word appears.

destruction activity means the destruction of vegetation in a watercourse, lake or spring, other than as a necessary and unavoidable part of excavation or placing of fill authorised under a permit issued under section 269(1).

destruction permit see section 1245(1).

1244 Existing applications

(1) This section applies if, immediately before the commencement—

(a) an application for a permit has been made under section 266; and

[s 305]

- (b) the permit has not been issued under section 269.
- (2) The application lapses to the extent it relates to a destruction activity.

1245 Existing permits

- (1) This section applies for a permit granted under section 269(1) for a destruction activity (a *destruction permit*) if—
 - (a) the destruction permit is in force immediately before the commencement; and
 - (b) the activity relates to an area of vegetation less than 0.5ha within a watercourse, lake or spring; and
 - (c) there is no development approval for the activity.
- (2) From the commencement—
 - (a) the activity is taken, until the expiry of the destruction permit, to be assessable development for which a development approval, in the form of a development permit, has been granted; and
 - (b) the area of vegetation is taken to be the land to which the development approval is attached; and
 - (c) the destruction permit has effect, until its expiry, as if it were the development permit for the destruction activity; and
 - (d) any condition of the destruction permit takes effect as if it were a condition of the development permit.

1246 Destruction of vegetation carried out under guidelines

- (1) This section applies if, immediately before the commencement—
 - (a) a person is carrying out destruction of vegetation in a watercourse, lake or spring under one of the following documents approved by the chief executive (the *activity guidelines*)—
 - (i) the document called ‘Guideline—Activities in a watercourse, lake or spring carried out by an entity’;
 - (ii) the document called ‘Guideline—Activities in a watercourse, lake or spring associated with a resource activity or mining operations’;
 - (iii) the document called ‘Guideline—Activities in a watercourse, lake or spring carried out by a landowner’;
 - (iv) the document called ‘Guideline—Activities in a watercourse or lake undertaken by a holder of an interim resource operations licence, resource operations licence or distribution operations licence’; and
 - (b) there is no development approval for the destruction; and
 - (c) the destruction is not a destruction activity for which—
 - (i) a permit has been issued to the person under section 269(1); or

[s 305]

- (ii) the person has applied, under section 266, for a permit that has not been issued under section 269(1).
- (2) From the commencement—
 - (a) the destruction is taken to be assessable development for which a development approval has been granted; and
 - (b) the area of vegetation is taken to be the land to which the development approval is attached; and
 - (c) the development approval has effect as if it were a development approval for the destruction; and
 - (d) any requirement of the activity guidelines takes effect as if it were a development condition of the development approval.

Division 3 Transitional provisions for existing levees

1247 Existing levees

- (1) Chapter 8, part 2, division 3, and a regulation made under section 1014(2)(n) do not apply to an existing levee.
- (2) In this section—

existing levee means a levee—

 - (a) that—
 - (i) was under construction when section 967 commenced; and
 - (ii) has not been modified since the construction of the levee was completed or otherwise came to an end; or

- (b) that was existing on the commencement and has not been modified since.

1248 References to particular provisions of this Act

- (1) A reference in another Act or a document to a particular provision of the Act, chapter 8, part 2 as in force immediately before the commencement of section 301 of the amending Act (the *replaced provision*) may, if the context permits, be taken as a reference to any provision of this Act, chapter 8, part 2 all or part of which corresponds, or substantially corresponds, to the replaced provision.

Example—

A reference in another Act to section 966A omitted and remade under the amending Act, part 19 is taken to be a reference to section 972 (Operational work) of this Act.

- (2) To remove any doubt, it is declared that for the *Acts Interpretation Act 1954*, section 14H, the Act, chapter 8, part 2 as omitted and remade under the amending Act, part 19 is a remake of the Act, chapter 8, part 2 as in force immediately before the commencement of section 301 of the amending Act.
- (3) In this section—

amending Act means the *Land, Water and Other Legislation Act 2013*.

306 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *declared catchment area* and *referral agency*—
omit.
- (2) Schedule 4—

[s 306]

insert—

advice agency see the Planning Act, section 250.

assessable development means assessable development prescribed under the Planning Act, section 232(1).

assessing authority, for a development application, means any relevant assessment manager or concurrence agency under the Planning Act.

irrigation infrastructure means water infrastructure or other infrastructure constructed, erected or installed for the supply of water or the storage and distribution of water for the irrigation of crops or pastures.

Examples of irrigation infrastructure—

a supply channel, head ditch or tailwater drain

levee—

- 1 A ***levee*** is an artificial embankment or structure which prevents or reduces the flow of overland flow water onto or from land.
- 2 A ***levee*** includes levee-related infrastructure.
- 3 However, the following are not levees—
 - (a) prescribed farming activities;
 - (b) fill that is—
 - (i) deposited at a place for gardens or landscaping, including, for example, landscaping for the purposes of visual amenity or acoustic screening; and
 - (ii) less than the volume of material prescribed under a regulation;

- (c) infrastructure used to safeguard life and property from the threat of coastal hazards;
- (d) a structure regulated under another Act including, for example, the following—
 - (i) a levee constructed as emergency work under the Planning Act, section 584 or 585;
 - (ii) a structure constructed under an approved plan under the *Soil Conservation Act 1986*;
 - (iii) a structure whose design takes into account the impacts of flooding or flood mitigation but which is not primarily designed for flood mitigation;

Example—

a public road within the meaning of the *Transport Infrastructure Act 1994*

- (iv) a structure constructed within the bed, or across a bank, of a watercourse, including, for example, a weir or barrage, the construction of which was carried out under this Act and for which a development permit under the Planning Act was given;
- (v) an embankment or other structure constructed for long-term storage of water under the Water Supply Act;

Examples—

a ring tank or dam

[s 306]

- (e) irrigation infrastructure that is not levee-related infrastructure.

levee-related infrastructure, for a levee, means infrastructure, including irrigation infrastructure, that is—

- (a) connected with the construction or modification of the levee; or
- (b) used in the operation of the levee to prevent or reduce the flow of overland flow water onto or from land.

Examples of infrastructure for paragraph (b)—

a channel, drain, outfall or pipe

Planning Act means the *Sustainable Planning Act 2009*.

prescribed farming activities means—

- (a) cultivating soil; or

Examples—

clearing, replanting and broadacre ploughing

- (b) disturbing soil to establish non-indigenous grasses, legumes or forage cultivars; or
- (c) using land for horticulture or viticulture; or
- (d) laser levelling or contouring soil.

self-assessable development means self-assessable development prescribed under the Planning Act, section 232(1).

- (3) Schedule 4, definition *dam*, paragraph 3—

insert—

- (d) a levee.

- (4) Schedule 4, definition *fill*, after ‘part 8’—

insert—

and definition *levee*, paragraph 3

- (5) Schedule 4, definitions *applicable code*, *assessment manager*, *concurrence agency*, *development*, *development approval*, *development permit*, *operational work*, *premises*, paragraph (a), *prohibited development* and *urban area*, ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

- (6) Schedule 4, definition *Sustainable Planning Act 2009 offence*—

omit, insert—

Planning Act offence means an offence against the Planning Act, section 574, 578(1), 579, 580(1), 581, 582 or 594(1) to the extent the section relates to the taking of, or interfering with, water.

Part 20 **Amendment of Water Supply (Safety and Reliability) Act 2008**

307 Act amended

This part amends the *Water Supply (Safety and Reliability) Act 2008*.

Note—

See also the amendments in schedule 1.

308 Amendment of s 12 (Register of service providers)

- (1) Section 12(3), ‘person’—

omit, insert—

entity

- (2) Section 12(3)(c) and (d)—

[s 309]

omit, insert—

- (c) details of the infrastructure operated by the service provider to supply the relevant water or sewerage service;
- (d) if the service provider appoints another entity (*an operating agent*) to operate the infrastructure for the service provider—the operating agent’s name and contact details;

309 Amendment of s 13 (Requirement for responsible entity to give information)

Section 13, definition *responsible entity*—

insert—

- (d) if a service provider is the prescribed related entity of the relevant infrastructure owner—the owner.

310 Amendment of s 20 (Who must apply for registration as a service provider)

- (1) Section 20(1), ‘persons’—

omit, insert—

entities

- (2) Section 20(1)(c)—

omit, insert—

- (c) 1, but not both, of the following—
 - (i) an entity (the *relevant infrastructure owner*) who is the owner of 1 or more elements of infrastructure (the *relevant infrastructure*) for supplying a water or sewerage service for which a charge is intended to be made;
 - (ii) an entity (the *prescribed related entity*) that is prescribed under a regulation as

a related entity of the relevant infrastructure owner.

(3) Section 20(2)—

renumber as section 20(3).

(4) Section 20—

insert—

- (2) For subsection (1)(c)(ii), the prescribed related entity must be nominated by the relevant infrastructure owner to operate the relevant infrastructure to supply the service, whether before or after the relevant infrastructure owner becomes the owner of the relevant infrastructure.

311 Replacement of ss 21 and 22

Sections 21 and 22—

omit, insert—

21 Applying for registration as a service provider

- (1) An application for registration as a service provider must be—
- (a) made to the regulator in the approved form; and
 - (b) supported by sufficient information to enable the regulator to decide the application; and
 - (c) accompanied by—
 - (i) the fee prescribed under a regulation; and
 - (ii) if the applicant is the prescribed related entity of the relevant infrastructure owner—the owner’s written consent to the registration of the prescribed related entity.

[s 311]

- (2) The regulator may require either or both of the following to give additional information about the application—
 - (a) the applicant;
 - (b) if the applicant is the prescribed related entity of the relevant infrastructure owner—the owner.
- (3) The regulator may require the information included in the application, or the additional information required under subsection (2), to be verified by statutory declaration.

22 Registration as a service provider

- (1) This section applies if the regulator is satisfied—
 - (a) the applicant has complied with section 21(1); and
 - (b) an entity of whom a requirement is made under section 21(2) or (3) has complied with the requirement; and
 - (c) for an applicant who is the prescribed related entity of the relevant infrastructure owner—
 - (i) the applicant can exercise the powers of a service provider under this Act for supplying the water or sewerage service to which the application relates; and
 - (ii) without limiting subparagraph (i), the contractual arrangements between the applicant and the relevant infrastructure owner adequately provide for the applicant to operate the infrastructure to supply the water or sewerage service; and

-
- (iii) if the applicant were to stop supplying, or cease to be the service provider for, the water or sewerage service, the relevant infrastructure owner could within a reasonable period nominate another entity to operate the infrastructure to supply the water or sewerage service.
- (2) The regulator must—
 - (a) register the applicant in the service provider register as the service provider for the water or sewerage service to which the application relates; and
 - (b) give notice of the registration to—
 - (i) the applicant; and
 - (ii) if the applicant is the prescribed related entity of the relevant infrastructure owner—the owner.
 - (3) The registration takes effect the day the regulator registers the applicant under subsection (2)(a).

Subdivision 2 Changing registration details

312 Amendment of s 23 (Applying to amend service provider's details of registration)

- (1) Section 23, heading, 'amend'—
omit, insert—
change
- (2) Section 23(2)—
omit, insert—
 - (2) The application must be—

[s 313]

- (a) made to the regulator in the approved form;
and
 - (b) if the service provider is the prescribed related entity of the relevant infrastructure owner—accompanied by the owner’s written consent to the changes.
- (3) Section 23(3)(b), ‘amendments’—
omit, insert—
changes
- (4) Section 23(3)—
insert—
- (c) if the service provider is the prescribed related entity of the relevant infrastructure owner—give the owner notice of the changed details.

313 Replacement of ss 24 and 25

Sections 24 and 25—

omit, insert—

Subdivision 3 Transferring registration

24 Definitions for sdiv 3

In this subdivision—

current infrastructure owner see section 25(1).

incoming related entity, of the current or new infrastructure owner, means the entity that the current or new infrastructure owner proposes to nominate, under section 20(2), to operate the infrastructure to supply the relevant service when the registration for the service is transferred under this subdivision.

new infrastructure owner see section 25(2)(a).

new service provider see section 25B(2)(c).

outgoing related entity, of the current infrastructure owner, means the prescribed related entity of the current infrastructure owner who is the service provider for the relevant service until the registration for the service is transferred under this subdivision.

relevant service see section 25(1).

25 Application of sdiv 3

- (1) This subdivision applies if the owner (the *current infrastructure owner*) of infrastructure for a registered service (the *relevant service*) intends to transfer the registration as service provider for the relevant service to the incoming related entity of the current infrastructure owner.
- (2) This subdivision also applies if the current infrastructure owner intends to transfer—
 - (a) the ownership of the infrastructure for the relevant service to another entity (the *new infrastructure owner*); and
 - (b) the registration as service provider for the relevant service to 1 of the following—
 - (i) the new infrastructure owner;
 - (ii) the incoming related entity of the new infrastructure owner.
- (3) Subsections (1) and (2)(b) apply whether the current infrastructure owner or the outgoing related entity of the current infrastructure owner is the service provider for the relevant service.

25A Notice of transfer

- (1) The current infrastructure owner must give the regulator notice (the *transfer notice*) of the proposed transfer.
- (2) The transfer notice must be—
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed under a regulation.
- (3) The regulator may require the following to give additional information about the transfer notice—
 - (a) the current infrastructure owner;
 - (b) any of the following, if relevant to the proposed transfer—
 - (i) the outgoing related entity of the current infrastructure owner;
 - (ii) the incoming related entity of the current infrastructure owner;
 - (iii) the new infrastructure owner;
 - (iv) the incoming related entity of the new infrastructure owner.
- (4) The regulator may require the information included in the transfer notice, or the additional information required under subsection (3), to be verified by statutory declaration.

25B Registering new service provider for transferred service

- (1) This section applies if the regulator is satisfied—
 - (a) the current infrastructure owner has complied with section 25A(1) and (2); and

- (b) an entity of whom a requirement is made under section 25A(3) or (4) has complied with the requirement; and
 - (c) for a proposed service provider who is the incoming related entity of the current or new infrastructure owner—
 - (i) the entity has been nominated under section 20(2) and prescribed under section 20(1)(c)(ii) as the prescribed related entity of the current or new infrastructure owner; and
 - (ii) the entity can exercise the powers of a service provider under this Act for supplying the relevant service; and
 - (iii) without limiting subparagraph (ii), the contractual arrangements between the entity and the current or new infrastructure owner adequately provide for the entity to operate the infrastructure to supply the relevant service; and
 - (iv) if the entity were to stop supplying, or cease to be the service provider for, the relevant service, the current or new infrastructure owner could within a reasonable period nominate another entity to operate the infrastructure to supply the relevant service.
- (2) The regulator must—
- (a) cancel the service provider’s registration for the relevant service; and
 - (b) give notice of the cancellation to—
 - (i) the current infrastructure owner; and
 - (ii) if the service provider was the outgoing related entity of the current

[s 313]

- infrastructure owner—the outgoing related entity; and
- (c) register the following (the *new service provider*) in the service provider register as the service provider for the relevant service—
- (i) for a transfer of registration under section 25(1)—the incoming related entity of the current infrastructure owner;
 - (ii) for a transfer of registration under section 25(2)(b)(ii) for which the regulator is satisfied of the matters mentioned in subsection (1)(c)—the incoming related entity of the new infrastructure owner;
 - (iii) for a transfer of registration under section 25(2) to which subparagraph (ii) does not apply—the new infrastructure owner; and
- (d) give notice of the registration to—
- (i) the new service provider; and
 - (ii) if the new service provider is the incoming related entity of the current infrastructure owner—the current infrastructure owner; and
 - (iii) if the new service provider is the incoming related entity of the new infrastructure owner—the new infrastructure owner.
- (3) The registration—
- (a) must not be on a day earlier than the day the regulator received the transfer notice under section 25A; but

-
- (b) may be on a later day, if agreed in writing between—
 - (i) the current infrastructure owner; and—
 - (ii) either—
 - (A) for a transfer of registration under section 25(1)—the new service provider; or
 - (B) for a transfer of registration under section 25(2)—the new infrastructure owner.

25C Compliance notice taken to have been given to new service provider

- (1) This section applies if—
 - (a) the regulator has given a service provider (the *original service provider*) a compliance notice; and
 - (b) the original service provider's registration as service provider is transferred under this subdivision; and
 - (c) the original service provider has not complied with the compliance notice before the new service provider is registered under section 25B(2)(c).
- (2) Subject to subsection (3), the new service provider is taken to have been the original service provider given the compliance notice.
- (3) For subsection (2)—
 - (a) the compliance notice is taken to have been given to the original service provider on the day the new service provider is registered; and
 - (b) a period to remedy a contravention or comply with a requirement, however

[s 314]

provided for in the compliance notice, is taken to be the equivalent period starting on the day the new service provider is registered.

Example—

A compliance notice states a day, that is 30 business days after the notice is issued, by which a contravention is required to be remedied. The period for remedying the contravention is taken to be 30 business days after the new service provider is registered.

Subdivision 4 Cancellling registration other than for transfer

314 Amendment of s 26 (Notice of intention to stop operating as a service provider)

- (1) Section 26(2), from ‘The service provider’ to ‘the notice.’—

omit, insert—

The service provider must, unless the service provider has a reasonable excuse, give at least 60 business days notice of the possible stoppage to—

- (a) the regulator; and
- (b) if the service provider is the prescribed related entity of the relevant infrastructure owner—the owner.

- (2) Section 26(4)—

omit, insert—

- (4) The regulator may require either or both of the following to give additional information about the notice—

- (a) the service provider;

-
- (b) if the service provider is the prescribed related entity of the relevant infrastructure owner—the owner.
- (4A) The regulator may require any information included in the notice, or any additional information required under subsection (4), to be verified by statutory declaration.
- (3) Section 26(5), ‘If the service provider fails’—
omit, insert—
If a requirement is made of the service provider under subsection (4) or (5) and the service provider fails
- (4) Section 26(7)—
omit, insert—
(7) If the service provider stops supplying the service, the service provider must, within 5 business days after stopping supply, give notice of the stoppage to—
(a) the regulator; and
(b) if the service provider is the prescribed related entity of the relevant infrastructure owner—the owner.
- (5) Section 26(4A) to (8)—
renumber as section 26(5) to (9).

315 Replacement of s 27 (Cancellation of registration)

Section 27—

omit, insert—

27 Cancellation of registration if service provider stops supplying service

If the regulator receives a notice under section 26(8), the regulator must—

[s 316]

- (a) cancel the service provider's registration as a service provider for the infrastructure and services to which the notice relates; and
- (b) give notice of the cancellation to—
 - (i) the service provider; and
 - (ii) if the service provider was the prescribed related entity of the relevant infrastructure owner—the owner.

316 Amendment of s 28 (Applying for cancellation of registration as service provider)

(1) Section 28—

insert—

- (2A) If the service provider is the prescribed related entity of the relevant infrastructure owner, the service provider must give the owner notice of the application.

(2) Section 28(4)—

omit, insert—

- (4) If the regulator is satisfied the applicant has complied with subsections (2) and (3) and any requirement under subsection (4), the regulator must—
 - (a) cancel the service provider's registration as a service provider for the infrastructure and services to which the application relates; and
 - (b) give notice of the cancellation to—
 - (i) the service provider; and
 - (ii) if the service provider was the prescribed related entity of the relevant infrastructure owner—the owner.

(3) Section 28(2A) to (4)—

renumber as section 28(3) to (5).

317 Insertion of new ch 2, pt 3, div 1, sdiv 5, hdg

After section 28—

insert—

Subdivision 5 Other matters

318 Amendment of s 30 (Reviewing and changing service provider registration details)

(1) Section 30(3)—

insert—

(c) if the service provider is the prescribed related entity of the relevant infrastructure owner—give the owner notice of the changed details.

(2) Section 30—

relocate to chapter 2, part 3, division 1, subdivision 2, as inserted by this Act, and *renumber* as section 23A.

319 Insertion of new ss 30 and 30A

After section 29—

insert—

30 Operation of infrastructure by prescribed related entity

- (1) This section applies to a service provider that is the prescribed related entity of the relevant infrastructure owner for a registered service of the service provider.
- (2) To remove any doubt, it is declared that the service provider can operate the infrastructure for the service under this chapter as if it were the owner.

[s 320]

- (3) Subsection (2) applies despite a contract, covenant or claim of right under a law of a State.

30A Ownership and operation of service provider's infrastructure that is part of land

- (1) This section applies to—
- (a) the ownership of a service provider's infrastructure; or
 - (b) a service provider's operation of the service provider's infrastructure under this chapter.
- (2) Neither the ownership nor the operation of the service provider's infrastructure is affected only because—
- (a) the infrastructure is, or becomes, part of land; or
 - (b) the land of which the infrastructure is a part is sold or otherwise disposed of.
- (3) The infrastructure can not be—
- (a) levied or seized in execution; or
 - (b) sold in exercise of a power of sale or otherwise disposed of by a process under a law of a State taken against the holder or the owner of the land.
- (4) This section applies despite—
- (a) an Act or law of a State; or
 - (b) a contract, covenant or claim of right under a law of a State.

320 Amendment of s 31 (Definition for div 2)

Section 31, definition *place*, 'part of a place'—
omit, insert—

building or structure

321 Amendment of s 49 (Liability of service providers for negligence)

(1) Section 49, heading—

omit, insert—

49 Liability of service providers and others for particular events or circumstances

(2) Section 49(1), ‘A service provider’—

omit, insert—

A service provider, entity operating a service provider’s infrastructure, relevant infrastructure owner

(3) Section 49(1) and (3), ‘relevant water infrastructure’—

omit, insert—

special infrastructure

(4) Section 49(1) and (2), ‘affected party’—

omit, insert—

indemnified party

322 Amendment of s 71 (Preparing strategic asset management plan)

Section 71—

insert—

- (4) If the service provider is the prescribed related entity of the relevant infrastructure owner, the plan must also be accompanied by the owner’s written agreement to the plan.

323 Amendment of s 74 (Approving strategic asset management plan)

Section 74(1)—

[s 324]

insert—

- (c) for a service provider who is the prescribed related entity of the relevant infrastructure owner—the plan was not accompanied by the owner’s written agreement.

324 Amendment of s 75 (Refusing to approve strategic asset management plan)

- (1) Section 75(1), ‘engineer’, first mention—

omit, insert—

engineer or was not accompanied by the written agreement of the relevant infrastructure owner under section 71(4)

- (2) Section 75(1)(b)(i), after ‘engineer’—

insert—

or accompanied by the written agreement of the relevant infrastructure owner, as relevant

325 Amendment of s 76 (Changing strategic asset management plan)

Section 76(1)—

omit, insert—

- (1) The service provider may change the strategic asset management plan, after it is approved, with the written agreement of—
 - (a) the regulator; and
 - (b) for a service provider who is the prescribed related entity of the relevant infrastructure owner—the owner.

326 Amendment of s 80 (Preparing system leakage management plan)

Section 80—

insert—

- (4) If the water service provider is the prescribed related entity of the relevant infrastructure owner, the plan must also be accompanied by the owner's written agreement to the plan.

327 Amendment of s 87 (Approving system leakage management plan)

Section 87(1)—

insert—

- (c) for a water service provider who is the prescribed related entity of the relevant infrastructure owner—the plan was accompanied by the owner's written agreement.

328 Amendment of s 88 (Refusing to approve system leakage management plan)

- (1) Section 88(1), 'engineer', first mention—

omit, insert—

engineer or was accompanied by the written agreement of the relevant infrastructure owner under section 80(4)

- (2) Section 88(1)(b)(i), after 'engineer'—

insert—

or accompanied by the written agreement of the relevant infrastructure owner, as relevant

[s 329]

329 Replacement of s 89 (Regulator may seek further information)

Section 89—

omit, insert—

89 Additional information may be required

- (1) If the regulator is not satisfied about a matter mentioned in section 87(1) for a plan received, the regulator may, by notice, require either or both of the following (the *recipient*) to give additional information about the matter—
 - (a) the water service provider;
 - (b) if the water service provider is the prescribed related entity of the relevant infrastructure owner—the owner.
- (2) If the recipient does not comply with the requirement within the reasonable period stated in the notice, the regulator must—
 - (a) refuse to approve the plan; and
 - (b) give the water service provider an information notice under section 88(3) stating that the plan is inadequate on the basis that the information has not been given.

330 Amendment of s 90 (Changing system leakage management plan)

Section 90(1)—

omit, insert—

- (1) A water service provider may change a system leakage management plan, after it is approved, with the written agreement of—
 - (a) the regulator; and

- (b) if the water service provider is the prescribed related entity of the relevant infrastructure owner—the owner.

331 Amendment of s 95 (Preparing drinking water quality management plan)

Section 95(3)—

omit, insert—

- (3) The drinking water quality management plan must—
 - (a) be prepared in accordance with the guidelines, if any, made by the regulator about preparing the plan; and
 - (b) state the registered services to which the plan applies; and
 - (c) include details of the infrastructure for providing the services; and
 - (d) identify the hazards and hazardous events the drinking water service provider considers may affect the quality of water to which the services relate; and
 - (e) include an assessment of the risks posed by the hazards and hazardous events; and
 - (f) demonstrate how the drinking water service provider intends to manage the risks posed by the hazards and hazardous events; and
 - (g) include details of the operational and verification monitoring programs under the plan, including the parameters to be used for indicating compliance with the plan and the water quality criteria for drinking water; and
 - (h) for a plan prepared by the prescribed related entity of the relevant infrastructure

[s 332]

owner—be accompanied by the owner’s written agreement to the plan.

332 Amendment of s 96 (Additional information may be required)

(1) Section 96(1)—

omit, insert—

(1) The regulator may, by notice, require either or both of the following (the *recipient*) to give additional information about the drinking water quality management plan—

- (a) the drinking water service provider;
- (b) if the drinking water service provider is the prescribed related entity of the relevant infrastructure owner—the owner.

Example of additional information—

information about arrangements relating to the supply of water to or from the provider’s drinking water service

(2) Section 96(2), ‘If the drinking water service provider’—

omit, insert—

If the recipient

333 Amendment of s 100 (Amendment of drinking water quality management plan—application)

Section 100(3), after ‘application’—

insert—

and the proposed amended drinking water quality management plan

334 Amendment of s 101 (Amendment of drinking water quality management plan—requirement of regulator)

Section 101—

insert—

- (8) If the drinking water service provider is the prescribed related entity of the relevant infrastructure owner, the regulator must give the relevant infrastructure owner a copy of all the notices.

335 Amendment of s 107 (Changing plans following review)

- (1) Section 107(3) and editor's note—

omit, insert—

- (3) Sections 71(4), 72, 74 and 75 apply to the modified strategic asset management plan.

- (2) Section 107(5) and editor's note—

omit, insert—

- (5) Sections 80(4), 81, 87 and 88 apply to a plan given to the regulator under subsection (4).

- (3) Section 107(9), after 'plan', first mention—

insert—

and the amended plan

336 Amendment of s 112 (Access for conducting audit reports)

Section 112—

insert—

- (3) If the service provider is the prescribed related entity of the relevant infrastructure owner, subsection (1) also applies to the owner as if the reference in the subsection to a service provider were a reference to the owner.

[s 337]

337 Amendment of s 115 (Preparing customer service standards)

Section 115(b)—

omit, insert—

- (b) give a copy of the standard to all of the following (each an *interested entity*)—
 - (i) the regulator;
 - (ii) each customer of the service provider who does not have a service contract;
 - (iii) if the service provider is the prescribed related entity of the relevant infrastructure owner—the owner.

338 Amendment of s 119 (Revising customer service standard)

Section 119(b)—

omit, insert—

- (b) give a copy of the revised standard to each interested entity.

339 Amendment of s 120 (Reviewing customer service standard)

Section 120(2)—

omit, insert—

- (2) If, because of the review, the service provider changes the standard, the service provider must give a copy of the changed standard to each interested entity.

340 Amendment of s 123 (Preparing drought management plans)

- (1) Section 123(4) and (5)—

renumber as section 123(5) and (6).

(2) Section 123—

insert—

- (4) If the water service provider is the prescribed related entity of the relevant infrastructure owner, the drought management plan must include, or be accompanied by, the owner's written agreement to the plan.

341 Amendment of s 129 (Changing a drought management plan)

(1) Section 129(2)—

renumber as section 129(3).

(2) Section 129—

insert—

- (2) If the water service provider is the prescribed related entity of the relevant infrastructure owner, the drought management plan, as changed, must include, or be accompanied by, the owner's written agreement to the changed plan.

342 Amendment of s 142 (Contents of annual report)

Section 142—

insert—

- (5) An annual report prepared under section 141(1) by a service provider who is the prescribed related entity of the relevant infrastructure owner must include, or be accompanied by, the owner's written agreement to the report.

343 Amendment of s 190 (Supplying unauthorised services)

(1) Section 190, 'A person'—

[s 344]

omit, insert—

An entity

(2) Section 190, ‘the person’—

omit, insert—

the entity

344 Amendment of s 201 (Preparing particular plans)

Section 201(5)(i), from ‘a reticulation system’ to
‘machines—include’—

omit, insert—

a dual reticulation system—include

345 Amendment of s 250 (Application for exemption)

Section 250(2)(b), from ‘a reticulation system’—

omit, insert—

a dual reticulation system.

346 Amendment of s 274 (Public reporting requirement)

Section 274(1)(c), from ‘a reticulation system’—

omit, insert—

a dual reticulation system.

347 Amendment of s 301 (Making declaration)

Section 301(2)(c), from ‘a reticulation system’—

omit, insert—

a dual reticulation system; or

348 Amendment of s 530 (Governor in Council may appoint administrator to operate infrastructure)

Section 530(1)(b), ‘is likely to stop supplying’—

omit, insert—

has stopped, or is likely to stop, supplying

349 Amendment of s 633 (Application of particular provisions—other schemes)

(1) Section 633(1)—

insert—

(d) under which recycled water is supplied—

(i) for the first time on or after 1 July 2009; and

(ii) to premises by way of a dual reticulation system; or

(e) under which recycled water is supplied—

(i) for the first time on or after 1 July 2009; and

(ii) for use in irrigating minimally processed food crops.

(2) Section 633—

insert—

(4) In this section—

minimally processed food crops means crops, stated to be minimally processed food crops, relating to using recycled water to irrigate the crops, in a regulation under the Public Health Act about standards for the quality of recycled water.

350 Insertion of new ch 10, pt 6

Chapter 10—

[s 350]

insert—

Part 6 **Transitional provisions
for Land, Water and
Other Legislation
Amendment Act 2013**

Division 1 **Transitional provisions
relating to incoming and
outgoing service providers**

652 Definitions for div 1

In this division—

changeover day means the day the outgoing service provider is dissolved under the Water Act, chapter 4, part 7, division 1.

incoming service provider see section 653(1)(d).

outgoing service provider see section 653(1)(a).

653 Application of div 1

- (1) This division applies if—
- (a) a water authority (the *outgoing service provider*) is a service provider for a water service; and
 - (b) the outgoing service provider is dissolved and converted, under the Water Act, chapter 4, part 7, division 1, to 2 or more entities (the *new entities*) that are alternative institutional structures; and
 - (c) 1 of the new entities becomes the relevant infrastructure owner of 1 or more elements of infrastructure for supplying the water service for which a charge is intended to be made; and

-
- (d) another of the new entities (the *incoming service provider*)—
- (i) becomes the prescribed related entity of the relevant infrastructure owner for operating the infrastructure to supply the water service; and
 - (ii) is registered as the service provider for the water service.
- (2) However, this division applies only if the changeover day is no later than 1 year after the commencement of this section.
- (3) In this section—
- alternative institutional structure* see the Water Act, schedule 4.

654 Continuation of strategic asset management plan

- (1) This section applies if, immediately before the changeover day, the outgoing service provider has a strategic asset management plan for the water service.
- (2) From the changeover day—
- (a) the plan becomes the incoming service provider's strategic asset management plan; and
 - (b) the notice of the approval of the plan given to the outgoing service provider under section 74(1) is taken to apply to the incoming service provider.

655 Continuation of exemption from system leakage management plan

- (1) This section applies if, immediately before the changeover day, the outgoing service provider

[s 350]

has an exemption from preparing a system leakage management plan for the water service under chapter 2, part 4, division 2, subdivision 3.

- (2) From the changeover day, the exemption becomes an exemption of the same type and duration for the incoming service provider.
- (3) Subsection (2) is subject to section 86.

656 Continuation of exemption from drought management plan

- (1) This section applies if, immediately before the changeover day, the outgoing service provider has an exemption from preparing a drought management plan for the water service under section 126.
- (2) From the changeover day, the exemption becomes an exemption of the same type for the incoming service provider.
- (3) Subsection (2) is subject to section 127.

657 Preparing relevant annual report

- (1) This section applies to a relevant annual report for—
 - (a) the financial year ending on 30 June 2013, if—
 - (i) the changeover day happens before 18 December 2013; and
 - (ii) the outgoing service provider has not given a copy of the report to the regulator; and
 - (b) the financial year ending on 30 June 2014, if the changeover day happens in that financial year.

-
- (2) A reference in section 142(1) or (4) (each a *relevant provision*) to the service provider is taken to include a reference to the outgoing service provider.
 - (3) A reference in a relevant provision to the financial year for the services for which the service provider is registered is taken to include a reference only to that part of the financial year for which the outgoing service provider was registered for the services.
 - (4) In this section—
relevant annual report means—
 - (a) the annual report required under section 141(1)(a) for the strategic asset management plan continued under section 654(2); or
 - (b) the annual report required under section 141(1)(c).

658 References to outgoing service provider

A reference to the outgoing service provider in a plan, exemption or other document may, if the context permits, be taken to be a reference to the incoming service provider.

Division 2 Other transitional provision

659 Application of particular provisions—relevant recycled water scheme

- (1) Sections 631 and 632 do not apply, and are taken never to have applied, to a relevant recycled water scheme.
- (2) Despite section 633(1)—

[s 351]

- (a) section 633(2) applies, and is taken always to have applied, to a relevant recycled water scheme if recycled water was supplied under the scheme before 1 July 2008; and
 - (b) section 633(3) applies, and is taken always to have applied, to a relevant recycled water scheme if recycled water is supplied under the scheme for the first time on or after 1 July 2008.
- (3) However, section 633(2) or (3) ceases to apply to a relevant recycled water scheme if—
- (a) a recycled water management plan is approved for the scheme; or
 - (b) the recycled water provider for the scheme is granted an exemption under section 253 from having an approved recycled water management plan.
- (4) In this section—
- relevant recycled water scheme*** means a recycled water scheme under which recycled water is or was supplied by way of a reticulation system that—
- (a) is used only to provide recycled water for outdoor use or for use in flushing toilets or in washing machines; and
 - (b) that is not a dual reticulation system.

351 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *transferee* and *transferor*—
omit.
- (2) Schedule 3—
insert—

current infrastructure owner, for chapter 2, part 3, division 1, subdivision 3, see section 25(1).

dual reticulation system means a network of pipes enabling drinking water and recycled water to be supplied to premises from separate pipes, but only if used to provide recycled water for—

- (a) flushing toilets; or
- (b) connection to a cold water laundry tap for a washing machine at a residential premises; or
- (c) irrigating lawns or gardens of a residential premises; or
- (d) washing down external parts of a residential premises, including, for example, a driveway.

incoming related entity, for chapter 2, part 3, division 1, subdivision 3, see section 24.

interested entity, for a customer service standard, see section 115(b).

new infrastructure owner, for chapter 2, part 3, division 1, subdivision 3, see section 25(2)(a).

new service provider, for chapter 2, part 3, division 1, subdivision 3, see section 25B(2)(c).

operating agent, for a service provider, see section 12(3)(d).

outgoing related entity, for chapter 2, part 3, division 1, subdivision 3, see section 24.

prescribed related entity, of a relevant infrastructure owner, see section 20(1)(c)(ii).

relevant infrastructure owner see section 20(1)(c)(i).

relevant service, for chapter 2, part 3, division 1, subdivision 3, see section 25(1).

[s 352]

service provider's infrastructure means the infrastructure operated by or for the service provider to supply a registered service, whether or not the infrastructure is owned by the service provider.

- (3) Schedule 3, definition *sewerage service provider*, 'a person'—
omit, insert—
an entity
- (4) Schedule 3, definition *water service provider*, 'a person'—
omit, insert—
an entity
- (5) Schedule 3, definition *works*, paragraph (a), after 'Act'—
insert—
or the Water Act

Part 21 Minor and consequential amendments

352 Legislation amended

- (1) Schedule 1 amends the legislation it mentions.
- (2) To remove any doubt, it is declared that an amendment of a water resource plan in schedule 1, part 2 has effect despite any requirement of the *Water Act 2000*, chapter 2, part 3, division 2.

Schedule 1 Minor and consequential amendments

section 352

Part 1 Amendments commencing on assent

Aboriginal Land Act 1991

1 Amendment of various sections

Each of the following provisions is amended by omitting 'written notice' and inserting 'notice'—

- section 17(1)(a)
- section 18(1)(b)
- section 19
- section 20
- section 45A
- section 52
- section 79
- section 85(1)(b)
- section 96(1)
- section 115
- section 118(3)
- section 143
- section 149(1)(a)
- section 150(2)
- section 152(1)

Schedule 1

- section 154(2)
- section 157(1)(a)
- section 159
- section 162(7)
- section 168(1)
- section 172(1)
- section 182(2)
- section 190(2)
- section 199(3)
- section 230(1)(b)
- section 250(1)
- section 255(5)(b)
- section 260(1)
- section 262(2)
- section 264(2)
- section 278(1)
- section 300(3).

2 Section 62(6), ‘(a)’—

omit, insert—

(b)

3 Section 147, definition *lessor*, paragraph (b), ‘sublease under’—

omit, insert—

lease under

-
- 4 Section 147, definition *residential lease*, paragraph (a), '120'—**
omit, insert—
119
- 5 Section 147, definition *residential lease*, paragraph (b), '135'—**
omit, insert—
133
- 6 Section 162(2)(b), 'lessee'—**
omit, insert—
lessor
- 7 Part 12, heading, 'Provision'—**
omit, insert—
Provisions
- 8 Section 202, heading, after 'Act'**
insert—
1989
- 9 Section 243, heading, after 'Act'**
insert—
2008
- 10 Part 20, division 2, heading—**
omit, insert—

Division 2

**Appointment, removal and
suspension of members of
land trusts**

11 After section 251—

insert—

Subdivision 3

**Removal or suspension of
members by Minister**

12 Section 296(1)(b) and (2), ‘131’—

omit, insert—

282

13 Section 296(3), editor’s note—

omit.

14 Section 301, ‘39’—

omit, insert—

50

15 Section 301, editor’s note—

omit.

16 Section 302, editor’s note—

omit.

**17 Section 305(2), definition *renumbered Act*, before
‘section 306’—**

insert—

former

Acquisition of Land Act 1967

1 Part 2—

insert—

Division 1 General

2 Section 5, ‘the schedule’—

omit, insert—

schedule 1

3 After section 6—

insert—

**Division 2 Taking other than by
agreement**

4 Section 7(4B), ‘9(2)’

omit, insert—

9(3)

5 Section 7(4B), ‘9(3)’

omit, insert—

9(4)

6 Section 16(2), ‘9(2)’

omit, insert—

9(3)

7 Section 16(2), ‘9(3)’

omit, insert—

9(4)

8 Section 22(2), ‘The Minister for that purpose’—

omit, insert—

For the purposes of subsection (1), the relevant Minister, other than the State Development Minister,

9 Section 41(1), ‘section 15’—

omit, insert—

part 2, division 3

10 Section 41(2)—

insert—

Minister includes a relevant Minister, other than the State Development Minister.

Foreign Ownership of Land Register Act 1988

1 Section 27(2)(a), after ‘units;’—

insert—

or

Geothermal Energy Act 2010

1 Section 405(1)(b), examples, second dot point, ‘an agreement under the ALA, section 15’—

omit, insert—

a resumption agreement under the ALA

Greenhouse Gas Storage Act 2009

1 Section 442(1)(b), examples, second dot point, ‘an agreement under the ALA, section 15’—

omit, insert—

a resumption agreement under the ALA

Land Act 1994

1 Amendment for references to ‘written notice’

All provisions of the *Land Act 1994* are amended by omitting ‘written notice’ and inserting ‘notice’

2 Amendment for references to ‘Written notice’

The following provisions are amended by omitting ‘Written notice’ and inserting ‘Notice’—

- section 23A(5)
- section 26(3)
- section 155E(2)
- section 160, heading
- section 168, heading.

3 Amendment for editor’s notes

The editor’s note to each of the following provisions is amended by omitting ‘Editor’s note’ and inserting ‘Note’—

Schedule 1

- section 21
- section 22(2)
- section 24(1)
- section 26(1)
- section 26B
- section 29(1)
- section 35(1)(a)
- section 42(1)
- section 52A(2)
- section 58(1)(b)
- section 67(3)
- section 70(1)
- section 76(1)(b)
- section 127A
- section 148
- section 157(2)
- section 162(4)
- section 172(3)
- section 192(4)
- section 197(1)
- section 215(2)
- section 218(5)
- section 221(1)
- section 231(1)
- section 234(a)
- section 240D(1)
- section 240F
- section 242(2)

- section 297(2)
- section 306(2)
- section 370(3)
- section 373
- section 373Q(2)
- section 462(1)
- section 466(1)
- section 469(1)
- section 477
- section 481(a).

4 Section 8, definition *ambulatory boundary principles*—
omit.

5 Section 21, note, as amended, ‘and the Petroleum Act 1923, section 10’—
omit, insert—

*, the Petroleum Act 1923, section 10 and the Petroleum and Gas
(Production and Safety) Act 2004, section 27*

6 Section 23(3) and (4)—
omit.

7 Section 31(3), ‘31C’—
omit, insert—

31C(1)

8 Section 31A(2), ‘31C(a)’—
omit, insert—

31D(1)

- 9 Section 31B(4), '31C(b)'—**
omit, insert—
31D(1)
- 10 Sections 34A and 34B—**
omit.
- 11 Section 34J and 34K—**
omit.
- 12 Sections 38B and 38C—**
omit.
- 13 Sections 55B and 55C—**
omit.
- 14 Section 100(5), definition *relevant applicant*—**
omit.
- 15 Sections 108B and 108C—**
omit.
- 16 Section 130A(2), 'in writing'—**
omit.
- 17 Section 159A(1), '159(1)(m)'—**
omit, insert—
159(1)(k)

-
- 18 Sections 177B and 177C—**
omit.
- 19 Section 213(5), definition *conditions*, ‘mandatory condition’—**
omit, insert—
mandatory conditions
- 20 Section 221(4)—**
renumber as section 221(2).
- 21 Section 231(1), ‘(1)’—**
omit.
- 22 Section 240G(2), ‘an overdue rate’—**
omit, insert—
overdue rates and charges
- 23 Section 240G(4), definition *overdue rate*, ‘rate’—**
omit, insert—
rates and charges
- 24 Section 249(7)—**
omit.
- 25 Section 327D—**
omit.
- 26 Section 348(d), ‘244’—**
omit, insert—

240F

- 27 Section 348(d), editor's note—**
omit.
- 28 Section 360E—**
omit.
- 29 Section 373L(b), 'division 6'—**
omit, insert—
chapter 4, part 3, division 5
- 30 Section 406(1A)(b) and (c)—**
renumber as section 406(1A)(a) and (b).
- 31 Section 406(1A) to (4)—**
renumber as section 406(2) to (5).
- 32 Section 420H(1), example, after 'Example'—**
insert—
of
- 33 Section 448(2)(k), '6'—**
omit, insert—
5
- 34 Sections 481C and 481D—**
omit.

35 Section 487(2), after ‘subject to’—*insert—*

the following sections

36 Schedule 1A, seventh dot point—*omit.***Land Title Act 1994****1 Amendment of various sections**

The editor’s note to each of the following provisions is amended by omitting ‘Editor’s note’ and inserting ‘Note’—

- section 115B(6)
- section 115C(1)(a)
- section 115E(1)(d)
- section 115I(2)
- section 140(2)
- section 149(3).

2 Section 11(1)(b), ‘lawyer’—*omit, insert—*

legal practitioner

3 Section 18(1)(c)—*omit.***4 Section 18(1)(d)—***renumber* as section 18(1)(c).

- 5 Section 22(1)(e), ‘lawyer’—**
omit, insert—
legal practitioner
- 6 Section 48C(2), example, ‘for subsection (2)’—**
omit, insert—
of projections as structural elements of a building
- 7 Section 89(1), ‘(2)’—**
omit, insert—
(3)
- 8 Section 115H(2)(a), ‘54’—**
omit, insert—
53A
- 9 Section 161(3A), ‘lawyer’—**
omit, insert—
legal practitioner
- 10 Section 189(1)(b) and (1A), ‘lawyer acting or purporting to act as lawyer’—**
omit, insert—
legal practitioner acting or purporting to act
- 11 Section 189(2), definition *indemnified lawyer*, ‘lawyer’—**
omit, insert—
legal practitioner

Land Valuation Act 2010

1 Section 10(2), note—

omit, insert—

Editor's note—

The Queensland planning provisions are available on the website of the department administering the Planning Act <<http://www.dsdip.qld.gov.au>>.

2 Section 25(2)(b), 'on to'—

omit, insert—

to or on

3 Section 117, after paragraph (b)—

insert—

Note—

See also chapter 5 (Internal and external reviews).

4 Section 247(5), after 'is taken'—

insert—

to

5 Section 262—

omit.

6 Section 297(1), after 'the repealed'—

insert—

Valuation

**7 Schedule, definition *valuation appeal requirements*,
'(4)'—**

omit, insert—

(5)

Mineral Resources Act 1989

1 Section 789(1)(b), examples, second dot point, 'an agreement under the ALA, section 15'—

omit, insert—

a resumption agreement under the ALA

Petroleum Act 1923

1 Section 191(1)(b), examples, second dot point, 'an agreement under the ALA, section 15'—

omit, insert—

a resumption agreement under the ALA

Petroleum and Gas (Production and Safety) Act 2004

1 Section 458(1)(d), ', section 9 to the'—

omit, insert—

to the relevant

2 Section 958(1)(b), examples, second dot point, ‘an agreement under the ALA, section 15’—

omit, insert—

a resumption agreement under the ALA

3 Schedule 2—

insert—

water monitoring activity see section 187(2).

Queensland Reconstruction Authority Act 2011

1 Section 99(2)(d), ‘, section 9 to the’—

omit, insert—

to the relevant

River Improvement Trust Act 1940

1 Before section 1—

insert—

Part 1

Preliminary

2 After section 2—

insert—

Part 2

Constitution of river improvement areas and trusts

3 After section 6A—

insert—

Part 5 Legal capacity and powers of trusts

4 After section 11A—

insert—

Part 6 Financial matters

Division 1 Trusts' responsibilities

5 After section 13—

insert—

Division 2 Funding

6 After section 14B—

insert—

Part 7 State powers to undertake or maintain works

7 After section 18—

insert—

Part 8 General

8 After section 23—

insert—

Part 9 **Transitional provisions**

Division 1 **Transitional provision for
Act No. 78 of 1997**

**South-East Queensland Water (Distribution and Retail
Restructuring) Act 2009**

1 **Schedule, definition *agreement to take*, ‘an agreement to
take the land made under’—**

omit, insert—

a resumption agreement in relation to the land within
the meaning of

Survey and Mapping Infrastructure Act 2003

1 **Section 99(2)—**

insert—

Note—

Under the *Land Act 1994*, section 290JA(2)(c) and the
Land Title Act 1994, section 51(2)(b), a registered plan
of subdivision is taken to be source material for land for
this section in particular circumstances.

Sustainable Planning Act 2009

1 Section 227(1)(a), ‘section 15’—

omit, insert—

part 2, division 3

2 Section 227(4), editor’s note, from ‘, 15’—

omit, insert—

and 41 (Disposal of land) and part 2, division 3 (Taking by agreement)

Torres Strait Islander Land Act 1991

1 Amendment of various provisions

Each of the following provisions is amended by omitting ‘written notice’ and inserting ‘notice’—

- section 14(1)(a)
- section 15(1)(b)
- section 16
- section 17
- section 41A(2)
- section 47
- section 52(1)(b)
- section 63(1)
- section 81
- section 108
- section 114(1)(a)
- section 115(2)

- section 117(1)
- section 119(2)
- section 122(1)(a)
- section 124
- section 127(7)
- section 133(1)
- section 138(2)
- section 146(2)
- section 148(3)
- section 156(1)
- section 161(5)(b)
- section 166(1)
- section 168(2)
- section 170(2)
- section 183(1)
- section 191(1)
- section 202(3).

2 Section 142(8), definition *relevant provisions*, before ‘part 8’—

insert—

section 66 and

3 After section 157—

insert—

Subdivision 3 Removal or suspension of members by Minister

Transport Planning and Coordination Act 1994

1 Section 28A, definition *agreement*, ‘an agreement’—

omit, insert—

a resumption agreement

2 Section 28A, definition *taking of land*—

omit, insert—

taking of land means the taking of land under a gazette resumption notice under the Acquisition Act.

3 Section 28B(2)(b)—

omit, insert—

(b) for the application of the Acquisition Act, part 2, whether the person assuming the role of relevant Minister was or is the Minister mentioned in the Acquisition Act, section 2, definition *relevant Minister*, paragraph (b) or another Minister.

Water Act 2000

1 Section 22(7), ‘take water’

omit, insert

take, or interfere with, water

2 Section 23(5), ‘take water’—

omit, insert—

take, or interfere with, water

-
- 3 Section 25(1)(a), ‘or interfered with’—**
omit.
- 5 Section 47(l), ‘Environmental Protection (Water) Policy 1997’—**
omit, insert—
Environmental Protection (Water) Policy 2009
- 6 Section 116, ‘from the applicant about the application’—**
omit, insert—
about the application under section 115A
- 7 Section 184(3A), second paragraph (b)—**
renumber as section 184(3A)(c).
- 8 Sections 199(4), 199A(4) and 199B(4), from ‘must’—**
omit, insert—
may deal with the allocation under section 197(4).
- 9 Section 304(2), ‘sections 209 to 303’—**
omit, insert—
division 1
- 10 Chapter 4, part 6, heading, ‘and Treasurer’—**
omit.
- 11 After section 696—**
insert—

Subdivision 3 Other matters

12 Section 882(4)(c), before ‘party’—

insert—

a

**13 Section 992A(5), definition *special agreement Act*
‘614(2)’—**

omit, insert—

584

14 Section 1009(1)(h)—

omit.

Water Regulation 2002

1 Part 2, division 1A—

omit.

3 Section 60A—

omit.

5 Schedule 16, items 1 and 2—

omit.

Water Supply (Safety and Reliability) Act 2008

1 After chapter 2, part 3, division 1 heading—

insert—

Subdivision 1 Application for registration

2 Section 38, ‘officer’—

omit, insert—

person

3 Section 38(3), ‘officer’s’—

omit, insert—

person’s

4 Section 340(b), ‘weir that’—

omit, insert—

a weir that

5 Section 434(4), ‘a document mentioned in subsection (3)(b)’—

omit, insert—

the document mentioned in subsection (3)

Part 2 Amendments commencing by proclamation

Petroleum Act 1923

1 Part 6D, heading, from ‘water supply’—

omit, insert—

water observations bores and water supply bores

2 Section 75WH, note 1, ‘section 20’—

omit, insert—

chapter 2, part 2, division 1A

Petroleum and Gas (Production and Safety) Act 2004

1 Section 189, note, from ‘sections 20’—

omit, insert—

chapter 2, part 2, division 1A and section 808.

2 Section 197, note, from ‘sections 20’—

omit, insert—

chapter 2, part 2, division 1A and section 808.

3 Chapter 2, part 10, heading, from ‘water supply’—

omit, insert—

water observation bores and water supply bores

Sustainable Planning Regulation 2009

1 Schedule 3, part 1, table 4, item 3, column 2, ‘section 20(2), (3) or (5)’

omit, insert—

section 20(1)(a) to (f) or 20A(2)

2 Schedule 3, part 2, table 4, item 1, ‘section 20(3)’

omit, insert—

section 20A(2)

3 Schedule 3, part 2, table 4, item 1, ‘section 20(2), (3) or (5)’

omit, insert—

section 20(1)(a) to (f) or 20A(2)

Vegetation Management Act 1999

1 Sections 20AB(b), 70AA(2) and 70AB(2), editor’s note, and schedule, definition *regional ecosystem number*, note, ‘<www.derm.qld.gov.au>’—

omit, insert—

<www.dnrm.qld.gov.au>

2 Schedule, definition *Land Act notice*, ‘*Vegetation Management and Other Legislation Act 2004*’—

omit, insert—

*Vegetation Management and Other Legislation
Amendment Act 2004*

3 Schedule, definition *vegetation clearing application*, paragraph (a), ‘that Act’—

omit, insert—

the Planning Act

Water Act 2000

1AA Section 24, heading, 's 20(3)'—

omit, insert—

s 20A(2)

1AB Section 24(1)—

omit, insert—

- (1) If there is a shortage of water, the chief executive may, by publishing a notice, limit or prohibit the taking of water under section 20A(2) for—
- (a) the domestic purpose of watering a garden; or
 - (b) stock purposes generally.

1AC Section 25, heading, 's 20(8)'—

omit, insert—

s 20C(3)

1AD Section 25(1)(d), '20(8)'—

omit, insert—

20C(3)

1AE Section 25ZA, '20(6)'—

omit, insert—

20(2)(c)

1AF Section 30(b), '(4) or (5)'—

omit, insert—

(4), (5) or (6B)

1 Section 30(b)—

omit, insert—

(b) the taking of water under section 20(1)(a) to (f),
20(4), 20A, 20B or 20C(1) or (2)

2 Section 46(2), 1014(2)(i), ‘under the *Sustainable Planning Act 2009*’—

omit.

2A Section 47(e), ‘section 20’—

omit, insert—

chapter 2, part 2, division 1A

3 Section 151(5), definition *Land Title Act 1994*, ‘*Regulation 1994*’—

omit, insert—

Regulation 2005.

4 Sections 259, 363(b), 740(1)(b)(ii), 746(4) and 1014(2)(h), ‘*Sustainable Planning Act 2009*’—

omit, insert—

Planning Act

5 Chapter 2, part 8, division 1, heading, ‘destroying vegetation, excavating’—

omit, insert—

excavating

- 6 Section 269, heading, from ‘for permit’—**
omit.
- 6A Section 747(3), ‘section 20’—**
omit, insert—
section 20A
- 7 Chapter 2, part 8, division 2, heading, ‘destroy vegetation, excavate’—**
omit, insert—
excavate
- 8 Sections 752(1)(a)(ii), 757A, 757G(1)(b) and 757I(1)(b)(ii), ‘Sustainable Planning Act 2009 offence’—**
omit, insert—
Planning Act offence
- 9 Section 817(1), before ‘who is’—**
insert—
or (d)
- 10 Section 966(2)(b), ‘other resources’—**
omit, insert—
quarry material
- 11 Section 967(6), ‘20(3)’—**
omit, insert—
20A(2)

12 Section 967(7), ‘spring, other than under 20(2), (3) or (5),’—

omit, insert—

spring

13 Section 967—

insert—

- (8) However, subsection (6) does not apply to operational work that allows taking or interfering with water in a watercourse, lake or spring under section 20(1)(a) to (f), 20A(1), (2) or (5), 20B(1) or 20C(1) or (2).

13A Section 1007, ‘20(7)’—

omit, insert—

20A(3)(a)

13B Section 1013B(3)(a), ‘section 20’—

omit, insert—

chapter 2, part 2, division 1A

14 Section 1014(2)(j), ‘prescribed under the *Sustainable Planning Act 2009*, section 232(1)’—

omit.

14A Section 1046(4)(a), ‘20(6)’—

omit, insert—

20(2)(c)

Water Regulation 2002

14B Part 2, division 4—

omit.

14C Schedule 5—

omit.

Water Resource (Baffle Creek Basin) Plan 2010

1 Section 50, ‘20(6)’—

omit, insert—

20(2)

Water Resource (Barron) Plan 2002

1 Section 50, ‘20(6)’—

omit, insert—

20(2)

Water Resource (Border Rivers) Plan 2003

1 Section 32, ‘20(6)’—

omit, insert—

20(2)

2 Section 42—
omit.

3 Section 50(c)—
omit.

Water Resource (Burdekin Basin) Plan 2007

1 Section 79, ‘20(6)’—
omit, insert—
20(2)

Water Resource (Calliope River Basin) Plan 2006

1 Section 13, ‘20(6)’—
omit, insert—
20(2)

Water Resource (Condamine and Balonne) Plan 2004

1 Section 44, ‘20(6)’—
omit, insert—
20(2)

2 Section 51—
omit.

3 Section 59(d)—
omit.

Water Resource (Cooper Creek) Plan 2011

1 Section 36, ‘20(6)’—
omit, insert—
20(2)

Water Resource (Fitzroy Basin) Plan 2011

1 Sections 110 and 116, ‘20(6)’—
omit, insert—
20(2)

Water Resource (Georgina and Diamantina) Plan 2004

1 Section 10, ‘20(6)’—
omit, insert—
20(2)

Water Resource (Great Artesian Basin) Plan 2006

1 Section 11, ‘20(6)’—

omit, insert—

20(2)

Water Resource (Gulf) Plan 2007

1 Sections 78 and 84, ‘20(6)’—

omit, insert—

20(2)

Water Resource (Mary Basin) Plan 2006

1 Section 70, ‘20(6)’—

omit, insert—

20(2)

Water Resource (Mitchell) Plan 2007

1 Sections 54 and 60, ‘20(6)’—

omit, insert—

20(2)

Water Resource (Moonie) Plan 2003

1 Section 32, '20(6)'—
omit, insert—
20(2)

2 Section 42
omit.

3 Section 50(c)—
omit.

Water Resource (Moreton) Plan 2007

1 Sections 63, 66, 76, 82, 85, '20(6)'—
omit, insert—
20(2)

Water Resource (Pioneer Valley) Plan 2002

1 Section 49B, '20(6)'—
omit, insert—
20(2)

Water Resource (Whitsunday) Plan 2010

1 Sections 67 and 72, '20(6)'—

omit, insert—

20(2)

Water Resource (Warrego, Paroo, Bulloo and Nebine) Plan 2003

1 Section 32, '20(6)'—

omit, insert—

20(2)

2 Section 42—

omit.

Water Regulation 2002

1 Section 52AAA, '20(8)(a)'—

omit, insert—

20C(3)(b)

2 Section 52AAB, '20(9)(a)'—

omit, insert—

20C(3)(c)(i)

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