



Queensland

Land and Other Legislation Amendment Bill 2014

Includes amendments agreed during Consideration



Queensland

Land and Other Legislation Amendment Bill 2014

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2014

A Bill

for

An Act to amend the *Acquisition of Land Act 1967*, the *Forestry Act 1959*, the *Land Act 1994*, the *Land Title Act 1994*, the *Mineral Resources Act 1989*, the *Native Title (Queensland) Act 1993*, the *Nature Conservation Act 1992*, the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004* and the *Water Act 2000* for particular purposes and to amend particular subordinate legislation under the *Sustainable Planning Act 2009* and the *Water Act 2000* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Land and Other Legislation Amendment Act 2014*.

2 Commencement

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

- (a) part 3;
- (b) part 4, other than sections 22, 76, 79 and 84;
- (c) part 8;
- (d) sections 125 to 127 and 129.

Part 2 Amendment of Acquisition of Land Act 1967

3 Act amended

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

4 Insertion of new ss 4A and 4B

Part 1—
insert—

4A Taking non-native title right or interest

- (1) This section applies to the taking of a non-native title right or interest if—
 - (a) the taking happens under a compulsory acquisition Act; and
 - (b) the taking under the compulsory acquisition Act—
 - (i) is authorised under the *Native Title (Queensland) Act 1993*, section 144(1)(b); or
 - (ii) is authorised under the compulsory acquisition Act but happens at the same time as the taking under that Act of native title rights and interests as authorised under the *Native Title (Queensland) Act 1993*, section 144(1)(a).
- (2) The compulsory acquisition Act, including to the extent appropriate this Act, must be applied to the taking of the non-native title right or interest to the greatest practicable extent as if the right or interest were land to which the compulsory acquisition Act otherwise applies.
- (3) However, when the taking has effect, despite any compulsory acquisition Act, including any other provision of this Act, the right or interest is completely extinguished to the extent it relates to land stated in the gazette resumption notice for the taking.
- (4) Without limiting subsection (1), taking that happens under a compulsory acquisition Act includes taking under a compulsory acquisition Act other than this Act if either of the following applies—

[s 4]

- (a) the compulsory acquisition Act authorises a constructing authority to take land under this Act;
 - (b) the compulsory acquisition Act authorises a constructing authority to take land under that Act but requires provisions of this Act to be applied to any aspect of the taking.
- (5) In this section—
- gazette resumption notice*, for the taking of a right or interest, includes any instrument giving effect to the taking.

4B Taking non-native title right or interest that is a resource interest

- (1) This section applies to the taking of a non-native title right or interest if—
 - (a) it is a taking to which section 4A applies; and
 - (b) the right or interest is a resource interest.
- (2) The entity taking the resource interest must give the relevant chief executive for the resource interest a written notice that—
 - (a) states the details of the extinguishment of the resource interest; and
 - (b) asks for the extinguishment to be recorded in the appropriate register kept by the chief executive; and
 - (c) is accompanied by a certified copy of the gazette resumption notice mentioned in section 4A(3).
- (3) Compensation to be paid under the compulsory acquisition Act in relation to the taking of the resource interest is limited in the way provided

for in the resource compensation provision for the resource interest.

Example—

If the resource interest is a mining tenement interest under the *Mineral Resources Act 1989*, on an application of section 10AAD of that Act, allowance can not be made for the value of minerals known or supposed to be on or below the surface of, or mined from, the land the subject of the mining tenement interest.

(4) In this section—

relevant chief executive, for a resource interest, means the chief executive of the department administering the resource interest compensation provision for the resource interest.

5 Amendment of s 5 (Purposes for which land may be taken)

Section 5(3) and (4)—

omit, insert—

(3) A part heading in schedule 1—

- (a) is not, for this section, a purpose set out in schedule 1; and
- (b) indicates only the type of activity or other thing to which a purpose mentioned in the part ordinarily relates; and
- (c) does not limit the matters to which a purpose mentioned in the part may relate.

6 Amendment of sch 1 (Purposes for taking land)

(1) Schedule 1, part 2, before first dot point—

insert—

- management, protection or control of the environmental values of areas or places

[s 7]

(2) Schedule 1, part 2, last dot point—

omit, insert—

- management, protection or control of the seashore, estuaries and land adjoining the seashore and estuaries, including for providing access to beaches, and works for the management, protection or control of the seashore, estuaries and land adjoining the seashore and estuaries

(3) Schedule 1, part 6—

insert—

- beaches

7 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

compulsory acquisition Act see the *Native Title (Queensland) Act 1993*, section 144(4).

non-native title right or interest means any right or interest included in non-native title rights and interests.

non-native title rights and interests has the same meaning as it has in the *Native Title (Queensland) Act 1993*.

resource interest means—

- a geothermal interest under the *Geothermal Energy Act 2010*; or
- a GHG interest under the *Greenhouse Gas Storage Act 2009*; or
- a mining tenement interest under the *Mineral Resources Act 1989*; or

- (d) a 1923 Act petroleum interest under the *Petroleum Act 1923*; or
- (e) a petroleum interest under the *Petroleum and Gas (Production and Safety) Act 2004*.

resource interest compensation provision, for a resource interest, means—

- (a) for a geothermal interest under the *Geothermal Energy Act 2010*—section 350D of that Act; or
- (b) for a GHG interest under the *Greenhouse Gas Storage Act 2009*—section 369D of that Act; or
- (c) for a mining tenement interest under the *Mineral Resources Act 1989*—section 10AAD of that Act; or
- (d) for a 1923 Act petroleum interest under the *Petroleum Act 1923*—section 124C of that Act; or
- (e) for a petroleum interest under the *Petroleum and Gas (Production and Safety) Act 2004*—section 30AD of that Act.

Part 3 Amendment of Forestry Act 1959

8 Act amended

This part amends the *Forestry Act 1959*.

9 Amendment of s 35 (Granting of permit for land within State forest)

Section 35(6)—

[s 10]

omit, insert—

- (6) However, the term lease must not be granted and, if granted, must not be extended or renewed, unless the chief executive is satisfied the objects of this Act would not be prejudiced or opposed by the lease, including any conditions to be included in the lease.
- (6A) If a term lease granted under subsection (5) is a rolling term lease under the *Land Act 1994*, its term may be extended under that Act only with the agreement of the chief executive and only after the chief executive considers the extension under subsection (6).

10 Amendment of s 36 (Dealings with respect to timber reserves)

Section 36—

insert—

- (4) If a term lease granted under subsection (1) is a rolling term lease under the *Land Act 1994*, its term may be extended under that Act only with the agreement of the chief executive.

11 Amendment of s 39A (Forest entitlement areas)

- (1) Section 39A, heading, after ‘areas’—

insert—

and forest consent areas

- (2) Section 39A(1), after ‘forest entitlement areas’—

insert—

and forest consent areas

- (3) Section 39A(2), after ‘forest entitlement area’—

insert—

or forest consent area

(4) Section 39A—

insert—

- (4) An agreement under subsection (2)(c)(i) that applies to a forest consent area applies subject to the forest consent agreement for the forest consent area.

12 Amendment of s 39B (Rights and liberties of contracting party in respect of forest entitlement areas)

(1) Section 39B, heading, after ‘areas’—

insert—

and forest consent areas

(2) Section 39B(a) and (b), after ‘forest entitlement area’—

insert—

or forest consent area

13 Amendment of s 39C (Interpretation)

Section 39C, definition *contracting party*, after ‘forest entitlement area’—

insert—

or forest consent area

14 Amendment of s 45 (Forest products etc. which are the property of the Crown)

Section 45(1)—

insert—

- (ea) all forest products on all forest consent areas at all times;

[s 15]

15 Insertion of new s 53A

After section 53—

insert—

53A Interfering with forest products on forest consent area

A person must not interfere with, or cause to be interfered with, any forest products on any forest consent area other than—

- (a) under the authority of an Act or law; or
- (b) under the authority of a permit, lease, licence or agreement granted or made under this Act.

Maximum penalty—

- (a) for a first offence—1000 penalty units; or
- (b) for a subsequent offence—3000 penalty units.

16 Replacement of s 61J (Agreement about forest products)

Section 61J—

omit, insert—

61J Definitions for pt 6B

In this part—

existing lease see section 61JA.

forest consent agreement means an agreement under section 61JA.

forest consent area means the area identified in a forest consent agreement as a forest consent area under this Act.

lease land, for a lease, means the land the subject of the lease.

61JA Forest consent agreements

- (1) The lessee of a lease (the *existing lease*) that is to be converted under the *Land Act 1994* to a freeholding lease or a deed of grant, and the chief executive for the State, may enter into an agreement that identifies an area that is the whole or part of the lease land for the existing lease as a forest consent area.
- (2) A forest consent agreement may provide for rights and obligations of any kind in relation to the use and management of, including access to, forest products on the forest consent area.
- (3) A forest consent agreement, when registered as a profit a prendre under 61JB(1), has effect as an agreement and as a profit a prendre—
 - (a) even if there is no consideration for the agreement; and
 - (b) even though forest products mentioned in the agreement remain the property of State.

Note—

See section 45(1)(ea).

61JB Registration of forest consent agreement as profit a prendre

- (1) A forest consent agreement must be registered as a profit a prendre.
- (2) The profit a prendre must first be registered over the existing lease by the chief executive (lands).

Note—

For the subsequent issue of any freeholding lease or deed of grant, see the *Land Act 1994*, section 172(5) that provides for the issue of new tenures subject to all registered interests.

[s 17]

- (3) The forest consent agreement continues in force as an agreement until the profit a prendre is released or removed.

Note—

See the *Land Act 1994*, section 373O and the *Land Title Act 1994*, section 97L.

- (4) If the forest consent agreement stops being in force—
- (a) the forest consent area stops being a forest consent area under this Act; and
 - (b) all forest products on the forest consent area are no longer the property of the State and become the property of the lessee of the freeholding lease, or the registered owner under the deed of grant, for the land that included the forest consent area.
- (5) If the chief executive agrees to release the profit a prendre, the chief executive's agreement may be made conditional on the other party to the forest consent agreement paying the State the value of forest products on the forest consent area as decided by the chief executive.

17 Amendment of s 61RH (Events that are compensation events)

Section 61RH(1)(c)—

omit, insert—

- (c) a term lease, as mentioned in section 35(5)—
- (i) is granted over the licence area or part of the licence area under the *Land Act 1994*; or
 - (ii) having been granted as mentioned in subparagraph (i), is renewed or extended under that Act;

18 Amendment of s 72 (Wild stock)

Section 72(1), ‘or forest entitlement area’—

omit, insert—

, forest entitlement area or forest consent area

19 Amendment of s 75 (Removal of trespassers)

Section 75—

insert—

(1A) Subsection (1) applies to a forest consent area as well as a State forest, timber reserve or forest entitlement area, but a forest officer may act under the subsection only with the agreement of the lessee or registered owner of the land that is or that includes the forest consent area.

20 Amendment of s 77 (Persons found in possession of forest products)

Section 77, after ‘forest entitlement area,’—

insert—

forest consent area,

21 Amendment of sch 3 (Dictionary)

(1) Schedule 3—

insert—

existing lease, for part 6B, see section 61JA(1).

forest consent agreement see section 61J.

forest consent area see section 61J.

lease land, for part 6B, see section 61J.

(2) Schedule 3, definition *forest products*, after ‘timber reserve’—

insert—

[s 22]

, forest consent area

- (3) Schedule 3, definition *forest products*, from ‘by the licensee’—

omit, insert—

licensee of the Crown holding, on a forest consent area by the lessee or owner of the land containing the forest consent area or on a forest entitlement area by the lessee or owner of the land containing the forest entitlement area.

Part 4 Amendment of Land Act 1994

22 Act amended

This part amends the *Land Act 1994*.

23 Amendment of s 25 (Disposal of reservations by sale)

- (1) Section 25(1), after ‘Minister’—

insert—

in the way prescribed by regulation

- (2) Section 25(3), ‘is the value’—

omit, insert—

must be decided

- (3) Section 25(3)(a) and (b), ‘on’—

omit, insert—

for

24 Amendment of s 26A (Disposal of redundant reservation)

Section 26A(4)—

omit, insert—

- (4) If the reservation is in a term lease or perpetual lease and a rent and instalment regulation applies to it for the purposes of this section, its rent may be adjusted as provided for in the rent and instalment regulation in relation to any increase in the area of land in the lease.

25 Amendment of s 26B (Forest entitlement areas)

Section 26B(6), after ‘Minister’—

insert—

in the way prescribed by regulation

26 Amendment of s 28 (Interaction with native title legislation)

Section 28(4), definition *action*, paragraph (g), after ‘renewing’—

insert—

or extending

27 Amendment of s 34IA (Particular matters about issue of deed of grant)

Section 34IA(2), after ‘reserve’—

insert—

in the way prescribed by regulation

28 Amendment of s 69 (What is the unimproved value)

Section 69(1), after ‘value’—

insert—

in the way prescribed by regulation

[s 29]

29 Amendment of s 109C (Buying or leasing land if closed road amalgamated with adjoining land)

Section 109C(4), after ‘premium’—

insert—

in the way prescribed by regulation

30 Amendment of s 115 (Conditions of sale)

Section 115(3) to (5)—

omit, insert—

- (3) If the interest sold is a lease of rural leasehold land and the Minister is satisfied the land suffers from, or is at risk of, land degradation, the sale notice—
 - (a) may include a requirement that the proposed lessee enter into a land management agreement for the lease; and
 - (b) if a requirement as mentioned in paragraph (a) is included—must state that the lease will be issued subject to the condition that the lessee must comply with the agreement.

31 Amendment of s 122 (Deeds of grant of unallocated State land)

Section 122(3), after ‘land’—

insert—

in the way prescribed by regulation

32 Amendment of s 127 (Reclaimed land)

Section 127(6)(b), after ‘Minister’—

insert—

in the way prescribed by regulation

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

Section 136(5) to (7)—

omit, insert—

- (5) If the Minister is satisfied the additional area suffers from, or is at risk of, land degradation, the Minister may require, as a condition of the offer, that the proposed lessee must enter into a land management agreement for—
 - (a) the additional area; and
 - (b) if the offer includes a condition mentioned in subsection (1) and the condition requires the additional area to be amalgamated or tied with lease land under another lease—the lease land under the other lease.
- (6) If the offered lease is issued and a condition of the offer is a requirement mentioned in subsection (5), the lease is subject to the condition that the lessee must comply with the land management agreement.

34 Replacement of ch 4, pt 2 (Eligibility to hold land)

Chapter 4, part 2—

omit, insert—

**Part 2 Restrictions on
eligibility to hold land**

142 Minors not to hold land

An individual is eligible to apply for, buy or hold land under this Act only if the individual is an adult.

[s 35]

143 Departmental officers not to hold land without approval

An officer of the department is not eligible to acquire land under part 1 without the Minister's written approval.

35 Amendment of s 155 (Length of term leases)

- (1) Section 155(1) and (2), 'for land other than rural leasehold land'—

omit.

- (2) Section 155(3) to (7)—

omit.

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

- (1) Section 155AA, heading, 'division'—

omit, insert—

div

- (2) Section 155AA(2)—

renumber as section 155AA(3).

- (3) Section 155AA—

insert—

- (2) However, this division does not apply to a rolling term lease whose term has been extended under division 2, subdivision 3.

37 Insertion of new s 155CA

Chapter 4, part 3, division 1C—

insert—

155CA Non-application of division to particular term leases

This division does not apply to a rolling term lease whose term has been extended under division 2, subdivision 3.

38 Amendment of s 155D (When Minister may reduce)

(1) Section 155D(1), ‘mentioned in section 155(3) to (6)’—

omit, insert—

as provided for in repealed section 155(4), (5) or (6)

(2) Section 155D(1)(d), ‘section 155(6)’

omit, insert—

repealed section 155(6)

(3) Section 155D(4)—

insert—

repealed, in relation to a provision, means as in force before the commencement of this definition.

39 Replacement of ch 4, pt 3, div 2, hdg

Chapter 4, part 3, division 2, heading—

omit, insert—

Division 2 Expiry, renewal and extension

Subdivision 1 Expiry

40 Amendment of s 157 (Expiry of lease)

Section 157(1)—

omit, insert—

[s 41]

- (1) A lessee's right to possession of lease land ends on the day the lease expires, but does not end if the lease is renewed before it expires or its term is extended.

41 Insertion of new ch 4, pt 3, div 2, sdiv 2, hdg and s 157AB

After section 157—

insert—

Subdivision 2 Renewal

157AA Limited application of sdiv 2

This subdivision does not apply to a rolling term lease.

42 Amendment of s 157A (Chief executive's approval required for renewal)

- (1) Section 157A(1)(b), 'this division'—

omit, insert—

this subdivision

- (2) Section 157A(2), 'section 164'—

omit, insert—

section 434B

43 Omission of s 160A (Land management agreement condition for particular offers)

Section 160A—

omit.

44 Amendment of s 162 (Issuing of new lease)

Section 162(3), 'category'—

omit, insert—

rental category

45 Omission of s 162A (Conditions imposed on particular new leases)

Section 162A—

omit.

46 Replacement of s 164 (Short term extension)

Section 164—

omit, insert—

Subdivision 3 Extensions of rolling term leases

164 What is a *rolling term lease*

- (1) A term lease is a ***rolling term lease*** if any of the following circumstances apply to it—
 - (a) it is a lease for tourism purposes for land on a regulated island;
 - (b) it is a lease used for agriculture, grazing or pastoral purposes, and if the lease land is rural leasehold land, the lease land is 100ha or more in area;
 - (c) it is a lease used for agriculture, grazing or pastoral purposes, the lease land is rural leasehold land less than 100ha in area and the Minister has approved the lease as a rolling term lease;
 - (d) another provision of this Act provides the lease is a rolling term lease.

[s 46]

Example for paragraph (d)—

Under section 176A(3), if a rolling term lease over 100ha in area is subdivided into 2 or more new leases, each new lease that is issued is a rolling term lease even if its lease land is less than 100ha in area.

- (2) However, a State lease is not a ***rolling term lease*** if the lease land is used for agriculture, grazing or pastoral purposes.

164A Approval of lease as a rolling term lease

The Minister may approve a lease used for agriculture, grazing or pastoral purposes as a rolling term lease under section 164(1)(c) only if the Minister is satisfied the most appropriate use for the lease land is for agriculture, grazing or pastoral purposes as the case may be.

164B Identification of lease as a rolling term lease

- (1) The identification, under this subdivision, of a lease as a rolling term lease, including because of the Minister's approval of the lease as a rolling term lease under section 164(1)(c)—
 - (a) allows the provisions of this subdivision relating to the extension of rolling term leases to be applied to the lease; and
 - (b) does not affect any aspect of the lease, including any conditions of the lease.
- (2) The chief executive must ensure the particulars recorded in the leasehold land register for each term lease that, under this subdivision, is a rolling term lease, include that the lease is a rolling term lease.
- (3) The recording of a lease as a rolling term lease as mentioned in subsection (2) must be done—

- (a) for a lease in existence immediately before the commencement of this section—as soon as practicable after the commencement of this section; and
- (b) for a lease that is granted after the commencement of this section and is a rolling term lease immediately it is granted—when the particulars of the lease are first recorded in the leasehold land register; and
- (c) for a lease that becomes a rolling term lease because of the Minister’s approval of the lease as a rolling term lease under section 164(1)(c)—as soon as practicable after it becomes a rolling term lease.

164C Making extension application or giving expiry advice

- (1) The Minister must grant an extension of the term of a rolling term lease if the lessee makes an application, in the approved form, to the chief executive to have the lease extended (an *extension application*), and making the application is not prevented under section 164D.
- (2) The Minister must not grant an extension of the term of a rolling term lease if the lessee advises the chief executive, in the approved form, that the lessee wishes to allow the lease to expire at the end of its term (an *expiry advice*).
- (3) Despite subsection (1), if the rolling term lease is issued under this Act or the repealed Act, but on the authority of another Act, the Minister may grant an extension of the lease only with the agreement of a person whose agreement to the extension is required under the other Act.

[s 46]

- (4) An agreement mentioned in subsection (3) may be given subject to a requirement for changing the conditions of the lease, and when the extension of the lease is granted, the conditions of the lease must be changed in the way required.
- (5) An extension application may be made—
 - (a) at any time in the last 20 years of the term of the lease; or
 - (b) at an earlier time approved by the Minister if the Minister is satisfied special circumstances exist.
- (6) An expiry advice may be given at any time in the last 5 years of the term of the lease.
- (7) If the Minister refuses to extend a lease for which an extension application is made, the lessee may appeal against the Minister's decision.

164D When extension application or expiry advice may not be made or given

A lessee may not make an extension application for a rolling term lease if the lessee has entered into an agreement with the Minister under section 327A to surrender the whole of the lease.

164E Length of extension

- (1) This section provides for granting an extension of the term of a rolling term lease on an extension application being made under this subdivision.
- (2) The length of the extension granted must be—
 - (a) for lease to which section 164C(3) applies—the term advised by a person whose agreement is required for the extension; or
 - (b) otherwise—the original term of the lease.

(3) In this section—

original term, of a lease, means the term of the lease—

- (a) if the lease was issued because of a renewal under the renewal provisions—as provided for when the lease was issued as a new lease under those provisions; or
- (b) otherwise—as provided for when the lease was issued;

and does not include any period by which the term of the lease has been extended under any provision of this Act, whether before or after the commencement of this definition, or under the repealed Act.

renewal provisions includes provisions of the repealed Act providing for renewals of term leases.

164F Effect of extension

(1) If a rolling term lease is extended under this subdivision—

- (a) the lease continues in force for the term of the extension; and
- (b) the term of the extension commences immediately after the lease would otherwise have expired.

(2) Without limiting subsection (1), on the commencement of the term of the extension (the *extension commencement*) of a rolling term lease under this subdivision—

- (a) a condition of the lease that, immediately before the extension commencement, was or was taken to be, under this Act, an imposed condition of the term lease, continues as an

[s 46]

imposed condition of the term lease as extended; and

- (b) the term lease as extended is a lease for the same purposes as the purposes of the term lease immediately before the extension commencement; and
- (c) the rent payable for the term lease immediately before the extension commencement continues to be the rent payable for the lease as extended, subject to adjustments applying from time to time under this Act; and
- (d) the lease as extended is subject to all relevant registered interests, and to all advices and notings in the land registry, to which the lease was subject immediately before the extension commencement, and in the same priorities; and
- (e) all acts done or omissions made in relation to the lease before the extension commencement have effect in relation to the term lease as extended.

Example for paragraph (e)—

A remedial action notice could be given after the extension commencement in relation to something done before the extension commencement.

- (3) The granting of an extension of a term lease under this subdivision does not stop the taking of action under this Act in relation to the lease, including, for example, action to end the lease, before the term of the extension commences or would otherwise have commenced.
- (4) The term of a rolling term lease may be extended under this subdivision regardless of how many times it has previously been extended under this subdivision or under other provisions of this Act or the repealed Act providing for extensions.

164G Notice of expiry

- (1) The chief executive must give the lessee of a rolling term lease notice advising when the lease is due to expire.
- (2) The notice must be given not later than 2 years before the lease is due to expire.
- (3) The notice need not be given if the chief executive has already received an extension application or expiry advice from the lessee, or if section 164D applies.

Subdivision 4 Possible extension instead of renewal

164H Application for term lease renewal may become extension application

- (1) This section applies if—
 - (a) a renewal application for a term lease that is not a rolling term lease is made under the renewal provisions; and
 - (b) before the renewal application is finalised under those provisions, the lessee advises the chief executive that the lessee agrees to the lease becoming a rolling term lease; and
 - (c) the lease is the subject of an approval of the Minister under 164(1)(c) and becomes a rolling term lease.
- (2) The renewal application for the lease is taken to be an extension application for the lease, and must be dealt with under subdivision 3.

47 Amendment of s 166 (Application to convert lease)

- (1) Section 166(1), ‘Subject to subsections (2) to (3), a’—

[s 48]

omit, insert—

A

(2) Section 166(1)(b)—

omit, insert—

- (b) a term lease to freehold land; and
- (c) a term lease to a perpetual lease, but only if the term lease is—
 - (i) a lease for pastoral purposes; or
 - (ii) a lease for tourism purposes for land on a regulated island.

(3) Section 166(2), (3) and (5)—

omit.

(4) Section 166(4)—

renumber as section 166(2).

48 Amendment of s 168 (Notice of chief executive's decision)

Section 168—

insert—

- (1A) However, if the application is for the conversion to freehold land of a lease for tourism purposes for land on a regulated island, the chief executive may offer a deed of grant only if the Governor in Council has first approved the conditions on which the offer is made.
- (1B) If the land the subject of the proposed lease or deed of grant is to include a forest consent area—
 - (a) the proposed lease or deed of grant must be referred to the chief executive under the *Forestry Act 1959* to decide conditions to be included in the offer; and

- (b) the offer must include any conditions decided under paragraph (a).

49 Omission of s 168A (Land management agreement for new perpetual lease)

Section 168A—

omit.

50 Amendment of s 169 (Conditions of freehold offer)

Section 169(b)(i)—

omit, insert—

- (i) the lessee enter into a forest consent agreement in relation to the land; or

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

(1) Section 170(1)—

omit, insert—

- (1) Unless a price or formula has already been stated in the lease to be converted, the purchase price is the amount decided by the chief executive in the way prescribed by regulation.

(2) Section 170(3) to (5)—

omit, insert—

- (3) Without limiting subsection (1), the regulation must provide for the purchase price to include the market value of any commercial timber that is the property of the State on the lease land, other than forest products the subject of a forest consent agreement.

[s 52]

52 Amendment of s 171 (When offer has been accepted)

Section 171—

insert—

- (2) If the conditions of an offer include a requirement to enter into a forest consent agreement, the chief executive under the *Forestry Act 1959* must have advised the chief executive under this Act that the forest consent agreement has been entered into before the conditions of the offer may be taken to be fulfilled.

53 Omission of ss 173A and 174

Sections 173A and 174—

omit.

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

(1) Section 176A(3)—

omit, insert—

- (2A) If the existing lease was a rolling term lease, each new lease is a rolling term lease under this Act, even if the lease land for the new lease is rural leasehold land of less than 100ha.
- (3) The subdivision offer must state—
 - (a) the imposed conditions of each of the new leases; and
 - (b) for each new lease to be issued as a term lease—the term of the lease.

(2) Section 176A(5)—

omit.

(3) Section 176A(2A) to (4)—

renumber as section 176A(3) to (5).

55 Omission of s 176H (Restriction on transferring new leases)

Section 176H—

omit.

56 Amendment of s 176K (Application to amalgamate)

Section 176K—

insert—

- (1A) For subsection (1)(b), 2 or more leases are taken to be of the same tenure type if—
- (a) each lease is for land on a regulated island, and is either a term lease for tourism purposes or a perpetual lease for tourism purposes; or
 - (b) each lease is either a term lease for pastoral purposes or a perpetual lease for pastoral purposes.

Example—

Two leases would be taken to be of the same tenure type for subsection (1)(b) if they were both for pastoral purposes even though one lease was a term lease and the other was a perpetual lease.

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

(1) Section 176L—

insert—

- (2A) However, if the proposed amalgamation is an amalgamation of a term lease and a perpetual lease, the amalgamation offer must be for a perpetual lease.

(2) Section 176L(5)—

omit.

[s 58]

- (3) Section 176L(2A) to (4)—
renumber as section 176L(3) to (5).

58 Amendment of s 176U (Making and registration of agreement about land management)

Section 176U(3)—
omit.

59 Amendment of s 176UA (Power to require land management agreement in particular circumstances)

- (1) Section 176UA(1)(b)—
omit.
- (2) Section 176UA(1)(c)—
renumber as section 176UA(1)(b).

60 Amendment of s 176W (Content of land management agreement)

Section 176W(1), from ‘include’—
omit, insert—

include any matter the Minister considers appropriate to achieve the purposes of a land management agreement.

61 Insertion of new s 176XA

Chapter 4, part 3, division 6—
insert—

176XA Cancellation of land management agreement

The Minister may, with the agreement of the lessee, cancel a land management agreement registered on a lease.

62 Amendment of s 176Z (When payment obligations end if lease ends under part)

Section 176Z, ‘lease ended’—

omit, insert—

the lease ends

63 Amendment of s 176ZA (Overpayments relating to former lease)

Section 176ZA(4)—

omit.

64 Omission of ch 5, pt 1 (Rents)

Chapter 5, part 1—

omit.

65 Amendment of s 198C (Operation of div 1)

Section 198C(3), after ‘permit’—

insert—

, or that are regulated conditions of a lease, licence or permit under division 3A

66 Omission of s 201A (Land management agreement condition)

Section 201A—

omit.

67 Amendment of s 202A (Operation of div 2)

Section 202A(3), after ‘mandatory condition’—

insert—

or regulated condition

[s 68]

68 Amendment of s 203 (Typical conditions)

Section 203(g)—

omit.

69 Amendment of s 211 (Reviewing imposed conditions of lease)

Section 211(2), from ‘If a lease’ to ‘for the lease’—

omit, insert—

If there is no land management agreement for a lease

70 Insertion of new ch 5, pt 2, div 3A

Chapter 5, part 2—

insert—

Division 3A Regulated conditions

212A Operation of div 3A

- (1) This division provides for particular conditions of leases, licences or permits that are provided for under a regulation.
- (2) Each condition that a regulation states is a condition of a lease, licence or permit is a ***regulated condition*** of the lease, licence or permit.
- (3) A regulated condition of a lease, licence or permit binds the lessee, licensee or permittee as well as any mandatory condition or imposed condition of the lease.

212B Regulation may impose conditions

- (1) A regulation may impose a condition on a category of leases, licences or permits.

-
- (2) If a lease is of a category of leases to which a regulated condition applies, the lease becomes subject to that regulated condition when, under this Act—
 - (a) it is first granted; or
 - (b) if it is a term lease—
 - (i) it is granted as a renewed lease; or
 - (ii) its term is extended, other than for an extension under section 434B.
 - (3) If a licence or permit is of a category of licences or permits to which a regulated condition applies, the licence or permit becomes subject to that regulated condition when it is issued under this Act.
 - (4) If a lease, licence or permit is subject to a regulated condition (the *original condition*) and the regulation is amended to change or omit the original condition, the lease, licence or permit continues to be subject to the original condition as if it had not been changed or omitted.
 - (5) However, the designated officer for the lease, licence or permit may, if considered appropriate, and with the agreement of the lessee, licensee, or permittee—
 - (a) omit the original condition from the lease, licence or permit if the regulated condition is omitted from the regulation; or
 - (b) change the original condition if the regulated condition is changed in the regulation.
 - (6) Without limiting subsection (1), a category of leases may be identified for the purposes of a regulation under this section having regard to any of the following—
-

[s 71]

- (a) whether the leases are freeholding leases, perpetual leases or term leases;
- (b) their rental categories;
- (c) what area of Queensland they are located in;
- (d) a combination of any of the matters mentioned in paragraphs (a) to (c).

212C Regulated conditions need not be registered

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

71 Amendment of s 213 (Obligation to perform conditions)

Section 213(5), definition *conditions*, ‘and imposed conditions’—
omit, insert—

, imposed conditions and regulated conditions

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

Section 234(a), note—

omit, insert—

Note—

A rent and instalment regulation may allow the Minister to take action for non-payment.

73 Amendment of s 240Q (Disposal of proceeds of sale)

Section 240Q(b), from ‘charges’—

omit, insert—

all debts owing to the State under section 438;

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

- (1) Section 249(1), from ‘If a term lease’ to ‘mentioned in section 160A(1),’—

omit, insert—

If a relevant term lease

- (2) Section 249—

insert—

- (7) In this section—

extension provisions means chapter 4, part 3, division 1B and division 2, subdivision 3.

relevant term lease means—

- (a) a term lease for pastoral purposes; or
- (b) a term lease for agricultural or grazing purposes if—
 - (i) the lease is for rural leasehold land; and
 - (ii) the lease land is 1000ha or more; and
 - (iii) the term is 20 years or more; and
 - (iv) it was granted under the renewal provisions or extended under the extension provisions.

75 Amendment of s 279 (Registration of land management agreements and transition to sale agreements)

- (1) Section 279(1), ‘an agreement mentioned in section 176U(1) or 240O’—

omit, insert—

a land management agreement or transition to sale agreement

- (2) Section 279—

insert—

[s 76]

- (3) A registered land management agreement is a relevant registered interest under the following—
- (a) section 162(5);
 - (b) section 172(5), but only if the new tenure is a term lease or perpetual lease;
 - (c) section 176G(2);
 - (d) section 176S(2).

76 Amendment of s 284 (Entitlement to search a register)

Section 284(4), from ‘at’ to ‘entity’—

omit, insert—

by, or a copy mentioned in subsection (1) obtained from, an entity

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

Section 290F(6)—

omit.

78 Omission of s 290FA (Taking effect of plan of subdivision)

Section 290FA—

omit.

79 Amendment of s 308 (Withdrawing lodged document before registration)

(1) Section 308(1)—

omit, insert—

- (1) The chief executive may withdraw a document, or permit a document to be withdrawn, if the chief executive is satisfied—

- (a) the document will not give effect to the intention expressed in it or a related document because of the order in which the document has been lodged in relation to other documents; or
 - (b) the document should not have been lodged.
- (2) Section 308(2), ‘subsection (1)(a)’—
omit, insert—
subsection (1)

80 Amendment of s 322 (Requirements for transfers)

Section 322(4)(b)(v), ‘section 325(4) and (5)’—

omit, insert—

section 202AA

81 Amendment of s 348 (Disposal of proceeds of sale)

Section 348(b), from ‘any rent,’—

omit, insert—

all debts owing to the State under section 438;

82 Omission of ss 373E and 373F

Sections 373E and 373F—

omit.

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

Section 373G—

insert—

- (2) However, the Minister’s approval is not required if the profit a prendre is a forest consent agreement.

[s 84]

84 Amendment of s 377 (Registering personal representative)

Section 377(2)(c)—

insert—

- (iii) the person has obtained a grant of representation other than in Queensland and the chief executive considers the person would succeed in an application for the resealing of the grant in Queensland.

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

Section 420C—

insert—

- (4A) Also, the chief executive may refuse to process an application relating to a lease if payment of rent under the lease is in arrears.

86 Amendment of s 422 (Appeal process starts with internal review)

Section 422, from ‘a decision’ to ‘this Act’—

omit, insert—

an original decision

87 Amendment of s 423 (Who may apply for review etc.)

Section 423, ‘a decision mentioned in schedule 2’—

omit, insert—

an original decision

88 Replacement of s 434 (Meaning of *unimproved value*)

Section 434—

omit, insert—

434 Meaning of *tourism purposes*

- (1) For this Act, a lease is a lease for *tourism purposes* if it is a lease for, or is ancillary to, a major tourist facility or a major resort development.
- (2) Without limiting subsection (1), if a lease expressly states that it is a lease for a major tourist facility or a major resort development it is taken to be a lease for *tourism purposes* for this Act.

434A Establishing an island as a regulated island

- (1) A regulation may declare an island, or a part of an island, is a regulated island.
- (2) The Minister may recommend a regulation under subsection (1) only if the Minister is satisfied the island or the part, if held under a lease for tourism purposes, should not be the subject of a conversion to freehold land unless the Governor in Council has first approved the conditions on which the offer for the conversion is made.

434B Availability of short-term extension in particular circumstances

- (1) This section applies if a term lease is the subject of an application under this Act for renewal, extension, conversion, subdivision or amalgamation.
- (2) If it appears the term lease will expire before the application is finalised, the Minister may extend the term of the lease, for periods of no longer

[s 89]

than 2 years, until the application is fully dealt with.

- (3) A lease may be extended under subsection (1) for 2 or more periods having regard to the same circumstances or different circumstances each time it is extended.

434C Change of status of particular land

- (1) This section applies to a term lease issued under this Act or the repealed Act, on the authority of another Act (the *original Act*), over land (the *relevant land*) set apart and declared, or dedicated, under the original Act.
- (2) If the relevant land ceases to be administered under the original Act and becomes an area set apart and declared, or dedicated, under another Act (the *new Act*), the lease continues to be a term lease under this Act and the new Act.
- (3) However, the term lease ends if the new Act states that any interest in the relevant land is ended.

89 Amendment of s 442 (Lapse of offer)

Section 442(9), after ‘or premium’—

insert—

to a price or premium decided by the offeror in the way prescribed by regulation

90 Amendment of s 448 (Regulation-making power)

- (1) Section 448(3)—

renumber as section 448(5).

- (2) Section 448—

insert—

- (3) Schedule 1B provides for matters that may be included in a regulation under subsection (2)(h).
- (4) Subsection (3) does not limit subsection (2)(h).

91 Amendment of s 457 (Terms of pre-Wolfe freeholding leases)

Section 457(2)—

omit, insert—

- (2) To remove any doubt, it is declared that the purchase price for a pre-Wolfe freeholding lease is not reduced by any deferral for hardship that may apply under a rent and instalment regulation.

92 Amendment of s 462 (Terms of post-Wolfe freeholding leases)

Section 462(2)—

omit, insert—

- (2) To remove any doubt, it is declared that the purchase price for a post-Wolfe freeholding lease is not reduced by any deferral for hardship that may apply under a rent and instalment regulation.

93 Amendment of s 466 (Terms of grazing homestead freeholding leases)

Section 466(2)—

omit, insert—

- (2) To remove any doubt, it is declared that the purchase price for a grazing homestead freeholding lease is not reduced by any deferral for hardship that may apply under a rent and instalment regulation.

[s 94]

94 Amendment of s 481 (Cancellation)

Section 481(a), note—

omit, insert—

Note—

A rent and instalment regulation may allow the Minister to take action for non-payment.

95 Amendment of s 487 (Existing concessions continue)

Section 487(2)—

omit, insert—

- (2) Subsection (1) has effect subject to any provisions of a rent and instalment regulation relating to changes of a lessee's circumstances.

96 Amendment of s 504 (Changing tenures of port lands)

Section 504(1C)—

omit, insert—

- (1C) A rent and instalment regulation does not apply to the lease until the order in council ceases to apply to it.

97 Insertion of new ch 9, pt 1M

Chapter 9—

insert—

Part 1M Transitional provisions for Land and Other Legislation Amendment Act 2014

521ZK Definitions for pt 1M

In this part—

amending Act means the *Land and Other Legislation Amendment Act 2014*.

commencement means the commencement of this part.

repealed means repealed by the amending Act.

521ZL Application for term lease renewal may become extension application for rolling term lease

- (1) This section applies if—
 - (a) immediately before the commencement, a renewal application for a term lease had been made under the renewal provisions but had not been finalised under those provisions; and
 - (b) on the commencement, the term lease becomes a rolling term lease.
- (2) After the commencement, and before the renewal application is finalised under the renewal provisions, the lessee may advise the chief executive that the lessee agrees to the renewal application being treated as an extension application.
- (3) If the lessee advises the chief executive under subsection (2), the renewal application for the lease is taken to be an extension application for

[s 97]

the lease, and must be dealt with under chapter 4, part 3, division 2, subdivision 3.

- (4) If, immediately before the commencement, an offer to renew the lease had been made but not accepted, on the lessee giving advice under subsection (2), the offer is taken to have been withdrawn.
- (5) If the chief executive is satisfied the lessee does not wish the renewal application to be treated as an extension application, the renewal application must be dealt with under this Act as in force immediately before the commencement.

521ZM Application for term lease renewal before commencement may become extension application

- (1) This section applies if—
 - (a) immediately before the commencement, a renewal application for a term lease had been made under the renewal provisions but had not been finalised under those provisions; and
 - (b) on the commencement, the term lease does not become a rolling term lease.
- (2) After the commencement, and before the application is finalised under the renewal provisions, the lessee may advise the chief executive that the lessee wishes the lease to become a rolling term lease.
- (3) If the lessee advises the chief executive under subsection (2), and the Minister approves the lease as a rolling term lease under section 164(1)(c), the renewal application for the lease is taken to be an extension application for the lease, and must be dealt with under chapter 4, part 3, division 2, subdivision 3.

- (4) If the lessee does not advise the chief executive under subsection (2), or if the lessee advises the chief executive under subsection (2) but the Minister does not approve the lease as a rolling term lease under section 164(1)(c), the renewal application must be dealt with under this Act as in force immediately before the commencement.

521ZN Ending of mandatory condition under repealed s 176H

- (1) This section applies to a lease that, immediately before the commencement, was subject to a mandatory condition under repealed section 176H.
- (2) On and from the commencement, the lease is no longer subject to the condition.

521ZO Transitional regulation-making power

A rent and instalment regulation may include a provision about a matter for which—

- (a) it is necessary to make provision to allow for or to facilitate achieving the transition from the repealed chapter 5, part 1 to the rent and instalment regulation; and
- (b) this Act does not make provision or sufficient provision.

98 Amendment of sch 1 (Community purposes)

Schedule 1, heading, ‘section 4’—

omit, insert—

schedule 6, definition *community purpose*

[s 99]

99 Amendment of sch 1A (Provisions that include mandatory conditions for tenures)

(1) Schedule 1A, entries for sections 115(5), 162A, 168A, 176H and 190(1)—

omit.

(2) Schedule 1A—

insert—

- section 176UA(3)

100 Insertion of new sch 1B

After schedule 1A—

insert—

Schedule 1B Regulation about the payment and collection of rent and instalments

section 448(3)

1 Matters that may be included

Matters that may be included in a regulation under section 448(2)(h), include, for leases, licences and permits (*authorities*), the following—

- (a) the setting of periods for which rents are payable;
- (b) the categorisation of authorities for rental purposes, including how categories may be changed, and including the review and appeal of decisions about categorisation;

- (c) the calculation of rent payable for authorities, including for different categories of authorities;
- (d) the setting of rent payable for particular authorities if calculation provisions under paragraph (c) are not to be applied, having regard to prescribed circumstances;
- (e) provision for the Minister to apply an alternative way of calculating the rent payable for a category of authority so that a lower rental amount may be applied in prescribed circumstances;
- (f) ending the requirement to pay rent for leases subject to conversion to freehold;
- (g) making of rent adjustments for authorities having regard to prescribed events, including, for example, a change in the area of an authority or a change in the category because of a change of purpose;
- (h) the fixing, in prescribed circumstances, of lesser rents than would otherwise be payable, whether by applying a discount or in some other way, including, for example, the setting by the Minister of concessional arrangements for authorities—
 - (i) requiring unusual development or investigative activity; or
 - (ii) held by charitable, sporting or recreational organisations; or
 - (iii) affected by a property build-up scheme or an indigenous cultural interest;
- (i) when and where any rent or instalment must be paid, including requiring payments to be made before objections or appeals are finalised;

[s 101]

- (j) the refunding of overpaid rent or instalments, and the extent to which interest is payable on overpaid amounts;
- (k) deferral arrangements for the payment of rent or instalments because of hardship and when deferral arrangements cease to apply;
- (l) the payment of penalty interest on unpaid rent or instalments;
- (m) action that may be taken in relation to the non-payment of an amount of rent or instalments, or of any amount of interest payable because of the non-payment of rent or instalments, including—
 - (i) the giving of notice about an intention to take an action mentioned in subparagraph (ii) or (iv); or
 - (ii) action to recover the amount in a court; or
 - (iii) action under this Act for the forfeiture of a lease; or
 - (iv) the cancellation of a licence or permit; or
 - (v) reinstatement of a cancelled licence or permit on payment of an unpaid amount.

101 Amendment of sch 2 (Original decisions)

- (1) Schedule 2, entries for sections 170(3), 182(2), 222(6) and 226(5)—
omit.
- (2) Schedule 2—
insert—

164C(7) about the Minister's refusal to grant an extension of a lease

170(2) about the chief executive's decision on the purchase price

102 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definitions *category*, *deferred interest*, *family arrangement*, *forest products*, *land management agreement*, *lease*, *original decision*, *penalty interest*, *profit a prendre*, *quarter day*, *rental valuation*, *set rent* and *unimproved value*—

omit.

(2) Schedule 6—

insert—

expiry advice see section 164C(2).

extension application see section 164C(1).

forest consent agreement see the *Forestry Act 1959*, section 61J.

forest consent area see the *Forestry Act 1959*, section 61J.

forest products see the *Forestry Act 1959*, schedule 3.

land management agreement means an agreement about the management and use of lease land, entered into under chapter 4, part 3 division 6, whether before or after the commencement of this definition, and includes the agreement as amended from time to time.

lease—

(a) generally—means the interest in land comprising a lease held under this Act, as shown by the current particulars of the interest in the appropriate register; and

[s 102]

(b) for chapter 6, part 4, division 11A—includes sublease.

original decision means a decision—

- (a) made under this Act and mentioned in schedule 2; or
- (b) made under a regulation, if the regulation provides for an appeal in relation to the decision.

regulated condition see section 212A.

regulated island means an island, or a part of an island, declared by regulation under section 434A to be a regulated island.

renewal provisions means chapter 4, part 3, division 2, subdivision 2.

rental category, of a lease, licence or permit, means the categorisation of the lease, licence or permit under a rent and instalment regulation to the extent the regulation relates to rent.

rental period, for a lease, licence or permit, means the rental period prescribed for the lease, licence or permit by a rent and instalment regulation.

rent and instalment regulation means a regulation, or provisions of a regulation, made under this Act for the purposes of section 448(2)(h).

rolling term lease see section 164.

tourism purposes see section 434.

- (3) Schedule 6, definition *rent*, after ‘payable’—

insert—

under a rent and instalment regulation

-
- (4) Schedule 6, definition *unallocated State land*, paragraph (b)—
omit, insert—
- (b) a road or a reserve, or a national park, conservation park, State forest or timber reserve; or

Part 5 Amendment of Land Title Act 1994

103 Act amended

This part amends the *Land Title Act 1994*.

104 Amendment of s 35 (Entitlement to search register)

Section 35(4), from ‘at’ to ‘entity’—

omit, insert—

by, or a copy mentioned in subsection (1) obtained from, an entity

105 Amendment of s 63 (Transfer of mortgaged lot)

(1) Section 63, heading, ‘Transfer of’—

omit, insert—

Dealing with

(2) Section 63(2), from ‘If’ to ‘the lot’—

omit, insert—

If a mortgagee of a lot becomes the registered owner of the lot

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

- (1) Section 82(1A)—
renumber as section 82(2).
- (2) Section 82(4), ‘subsection (2)(a)’—
omit, insert—
subsection (3)(a)

107 Amendment of s 90 (Surrendering an easement)

- (1) Section 90(2)(a) and (b), after ‘the lot’—
insert—
 , or the lessee of the lease,
- (2) Section 90(3), after ‘the lot’—
insert—
 , or all registered mortgagees and sublessees of the lease,
- (3) Section 90(4), ‘a lessee’—
omit, insert—
 a lessee of the lot, or a sublessee of the lease,
- (4) Section 90(5)—
insert—
 lessee, of a lease, means—
 - (a) the registered lessee of the lease; or
 - (b) if the mortgagee of the lease is in possession—the mortgagee in possession.
- (5) Section 90(5), definition *owner*, paragraph (b), ‘registered owner’—
omit, insert—
 lot

108 Amendment of s 90A (When easement over registered lease ends)

(1) Section 90A(1)—

omit, insert—

(1) A registered easement, to the extent it benefits or burdens a registered lease, ends when the lease ends.

(2) Section 90A(2), ‘burdens’—

omit, insert—

benefits or burdens

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

(1) Section 94(2)—

omit, insert—

(2) A high-density development easement may be created only over 2 small, adjoining lots, and only if—

(a) any of the following applies—

(i) a wall of a building situated on 1 of the adjoining lots is also a wall of a building situated on the other adjoining lot, and the wall is on the common boundary of the 2 adjoining lots;

(ii) a wall of a building situated on 1 of the adjoining lots is adjacent to a wall of a building situated on the other adjoining lot, each wall is constructed on the same foundation and the foundation is on the common boundary of the 2 adjoining lots;

(iii) a wall of a building situated on 1 of the adjoining lots is adjacent to a wall of a

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building situated on the other adjoining lot, each wall is constructed on a separate foundation and each foundation is adjacent to the common boundary of the 2 adjoining lots; or

- (b) a relevant development approval, under which a requirement for a circumstance mentioned in paragraph (a)(i), (ii) or (iii) applies as a condition, applies to both adjoining lots.

(2) Section 94(4)—

insert—

relevant development approval means—

- (a) a development approval under the *Sustainable Planning Act 2009* for any of the following as mentioned in section 7 of that Act—
 - (i) carrying out building work;
 - (ii) reconfiguring a lot;
 - (iii) making a material change of use of premises; or
- (b) a PDA development approval under the *Economic Development Act 2012* for any of the following as mentioned in section 33(2) of that Act—
 - (i) carrying out building work;
 - (ii) reconfiguring a lot;
 - (iii) making a material change of use of premises.

110 Amendment of s 95 (Easement for support)

Section 95(5), ‘subsection (1) or (2)’—

omit, insert—

subsection (2) or (3)

111 Amendment of s 111 (Registering personal representative)

Section 111(2)(c)—

insert—

(iii) the person has obtained a grant of representation other than in Queensland and the registrar considers the person would succeed in an application for the resealing of the grant in Queensland.

112 Amendment of s 149 (Registrar may withdraw instrument)

Section 149(3) and note, ‘section 159(1)(a)’—

omit, insert—

section 159(1)

113 Amendment of s 159 (Withdrawing lodged instrument before registration)

Section 159(1)—

omit, insert—

(1) The registrar may withdraw an instrument, or permit an instrument to be withdrawn, if the registrar is satisfied—

(a) the instrument will not give effect to the intention expressed in it or a related instrument because of the order in which the

[s 114]

instrument has been lodged in relation to other instruments; or

(b) the instrument should not have been lodged.

114 Amendment of s 189 (Matters for which there is no entitlement to compensation)

Section 189(1)(g), 'error'—

omit, insert—

excess

Part 6 Amendment of Mineral Resources Act 1989

115 Act amended

This part amends the *Mineral Resources Act 1989*.

116 Insertion of new s 386Q

After section 386P—

insert—

386Q Period of effect of particular later development plans

(1) This section applies if—

- (a) before the commencement of this section, the holder of a mining lease was given, under section 318EH, a notice (the *notice*) of the approval of a proposed later development plan for the lease; and
- (b) the notice was given to the holder of the lease after the start of the plan period for the

proposed plan as stated in the proposed plan.

- (2) For an Act, the approval has effect, and is taken to have had effect, from—
 - (a) the start of the plan period; or
 - (b) if the notice stated a later day of effect—the later day.
- (3) The notice is, and is taken always to have been, valid and effective—
 - (a) even though the notice was given after the commencement of the plan period stated for the proposed plan; and
 - (b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the plan before the approval was given; and
 - (c) regardless of the extent to which section 318EF(b) was complied with.

Example for paragraph (c)—

It does not matter if a development plan was considered under section 318EF(b) but was not current at the time of its consideration.

- (4) For this section, it does not matter if the notice was required to be an information notice as mentioned in section 318EH(2)(b) or (c).
- (5) This section applies despite chapter 8, part 9.

[s 117]

Part 7 Amendment of Native Title (Queensland) Act 1993

117 Act amended

This part amends the *Native Title (Queensland) Act 1993*.

118 Amendment of s 144 (Compulsory acquisition of native title)

(1) Section 144(1) and (2)—

omit, insert—

- (1) The power of compulsory acquisition under a compulsory acquisition Act includes—
 - (a) power to compulsorily acquire, for the purposes of the compulsory acquisition Act, native title rights and interests in relation to any land or waters; and
 - (b) if native title rights and interests are compulsorily acquired in relation to land or waters, power to compulsorily acquire at the same time any non-native title rights and interests in relation to the land or waters.
- (2) To remove any doubt, it is declared that—
 - (a) native title rights and interests in relation to any land may be acquired under a compulsory acquisition Act even though the Act would not otherwise apply to the land; and
 - (b) all non-native title rights and interests in relation to the land may be acquired in accordance with subsection (1)(b) under a compulsory acquisition Act even though the Act would not otherwise apply to the land.

Examples—

- 1 As a result of the operation of subsection (2)(a), native title rights and interests in relation to unallocated State land under the *Land Act 1994* may be acquired under the *Acquisition of Land Act 1967* even though the *Acquisition of Land Act 1967* would not otherwise apply to the unallocated State land.
- 2 As a result of the operation of subsection (2)(b), if native title rights and interests in relation to particular unallocated State land are acquired under the *Acquisition of Land Act 1967*, all non-native title rights and interests in relation to that unallocated State land may also be acquired at the same time under the *Acquisition of Land Act 1967* even though the *Acquisition of Land Act 1967* would not otherwise apply to the unallocated State land.

(1A) Section 144—

insert—

- (3A) Subsections (3B) and (3C) apply if—
- (a) native title rights and interests in relation to land or waters are acquired under a compulsory acquisition Act; and
 - (b) the holders of the rights and interests are entitled to compensation under the Commonwealth Native Title Act for the acquisition.
- (3B) If the person who acquires the rights and interests is not the State, that person is liable to pay the compensation.
- (3C) However, the State is liable to pay the compensation if, when the compensation is required to be paid, it is not reasonably practicable for the holders to otherwise recover the compensation.

Note—

See the *Native Title Act 1993* (Cwlth), section 24MD(4)(b)(i) in relation to the recovery of compensation.

[s 119]

- (2) Section 144(4), definition *compulsory acquisition Act*, after ‘an Act’—
insert—
 , other than the *Land Act 1994*,
- (3) Section 144(4), definition *compulsory acquisition Act*, ‘Organization’—
omit, insert—
 Organisation
- (4) Section 144(4), definition *compulsory acquisition Act*, entry for *Transport (Gladstone East End to Harbour Corridor) Act 1996*—
omit.

Part 8 **Amendment of Nature Conservation Act 1992**

119 Act amended

This part amends the *Nature Conservation Act 1992*.

120 Amendment of s 37 (Chief executive’s powers to renew existing authorities for national parks)

Section 37—

insert—

- (6) If an authority under this section is also a rolling term lease under the *Land Act 1994*, the lease may be extended under that Act, but only with the consent of the chief executive under this Act.

Note for subsection (6)—

See the *Land Act 1994*, section 164C.

121 Amendment of s 38 (Leases may be granted under Land Act 1994)

Section 38—

insert—

- (4) If a lease granted under this section is also a rolling term lease under the *Land Act 1994*, the lease may be extended under that Act, but only with the consent of the chief executive under this Act.

Note for subsection (4)—

See the *Land Act 1994*, section 164C.

Part 9 Amendment of Petroleum Act 1923

122 Act amended

This part amends the *Petroleum Act 1923*.

123 Insertion of new ss 128A–128B

Part 9, division 3—

insert—

128A Period of effect of particular later work programs

- (1) This section applies if—
- (a) before the commencement of this section, the holder of an authority to prospect was given, under section 25F, a notice (the *notice*) of the approval of a proposed later work program for the authority; and

[s 123]

- (b) the notice was given to the holder of the authority after the start of the period of the proposed program as stated in the proposed program.
- (2) For an Act, the approval has effect, and is taken to have had effect, from—
 - (a) the start of the period; or
 - (b) if the notice stated a later day of effect—the later day.
- (3) The notice is, and is taken always to have been, valid and effective—
 - (a) even though the notice was given after the commencement of the period stated for the proposed program; and
 - (b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the program before the approval was given; and
 - (c) regardless of the extent to which section 25E(2)(c) and (d) was complied with.
 - Example for paragraph (c)—*

It does not matter if a work program was considered under section 25E(2)(c) but was not current at the time of its consideration.
- (4) This section applies despite part 4, division 2.

128B Period of effect of particular later development plans

- (1) This section applies if—
 - (a) before the commencement of this section, the holder of a petroleum lease was given, under section 53G, a notice (the *notice*) of the approval of a proposed later development plan for the lease; and
-

- (b) the notice was given to the holder of the lease after the start of the plan period for the proposed plan as stated in the proposed plan.
- (2) For an Act, the approval has effect, and is taken to have had effect, from—
 - (a) the start of the plan period; or
 - (b) if the notice stated a later day of effect—the later day.
- (3) The notice is, and is taken always to have been, valid and effective—
 - (a) even though the notice was given after the commencement of the plan period stated for the proposed plan; and
 - (b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the plan before the approval was given; and
 - (c) regardless of the extent to which section 53E(2)(e) was complied with.

Example for paragraph (c)—

It does not matter if a development plan was considered under section 53E(2)(e) but was not current at the time of its consideration.

- (4) This section applies despite part 6, division 2.

[s 124]

Part 10 **Amendment of Petroleum and Gas (Production and Safety) Act 2004**

124 Act amended

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

124A Amendment of s 42 (Provisions of authority to prospect)

Section 42(7), ‘The’—

omit, insert—

Subject to division 3, subdivision 7, the

124B Insertion of new ch 2, pt 1, div 3, sdiv 7

Chapter 2, part 1, division 3—

insert—

Subdivision 7 Special statutory extension of work programs

63A Application of sdiv 7

This subdivision applies to the following authorities to prospect—

- (a) an authority granted before 1 July 2014 that is in force immediately before 1 July 2014;
- (b) an authority granted under section 41 on or after 1 July 2014 if—
 - (i) the holder of the authority is, immediately before 1 July 2014, regarded by the Minister as the

preferred tenderer for the call of tenders for the authority; or

- (ii) the holder of the authority is, on or after 1 July 2014, regarded by the Minister as the preferred tenderer for the call of tenders for the authority that closes on 29 September 2014.

63B Extension of current work program—authority to prospect for a term of 12 years

- (1) This section applies to an authority to prospect mentioned in section 63A(a) or (b) granted or to be granted for a term of 12 years.
- (2) The program period for the current work program for the authority to prospect is extended by 2 years—
 - (a) for an authority mentioned in section 63A(a)—on 1 July 2014; or
 - (b) for an authority mentioned in section 63A(b)—on the day the authority is granted.
- (3) The 2-year extension applies without any requirement to give notice of the extension to the authority to prospect holder.
- (4) If the 2-year extension would result in the program period for the work program ending after the 12-year period for the authority to prospect, the effect, if any, of the 2-year extension is that the extension of the program period ends at the end of the 12-year period.

63C Extension of current work program—authority to prospect for a term of less than 12 years

- (1) This section applies to an authority to prospect mentioned in section 63A(a) or (b) granted or to be granted for a term of less than 12 years.

[s 124B]

- (2) The holder of the authority to prospect may apply to the Minister in the approved form to extend the term of the authority to prospect, and the program period for the current work program for the authority, by 2 years.
- (3) If the Minister approves the extension, the term of the authority to prospect, and the program period for the current work program, are extended by 2 years.
- (4) If the 2-year extension would result in the program period for the work program ending after the term for the authority to prospect ends, the effect, if any, of the 2-year extension is that the extension of the program period ends at the end of the term of the authority.
- (5) Only 1 application may be made under this section in relation to the authority to prospect.

63D Applying 2-year extension to current work program for activities

- (1) The 2-year extension has effect for a work program without any requirement for amending the work program under subdivision 6, and the extension does not count as a previous extension under section 59(2)(b).
- (2) Activities provided for in the work program are not changed.
- (3) Requirements stated in the work program for the carrying out of stated activities are taken to be adjusted to allow for the activities to be undertaken during the extended remaining period for the work program.

63E Applying 2-year extension to relinquishment

- (1) This section applies if, immediately before the commencement of this subdivision, a relinquishment of a part of the area of an authority to prospect was required to be made—
 - (a) on a relinquishment day happening on or after the commencement; or
 - (b) if there was a deferral of a relinquishment day under section 62—on a day within the period that, on the commencement, becomes the extended remaining period for the work program.
- (2) The relinquishment is instead required to be made at the end of the extended remaining period for the work program.

124C Insertion of new ch 2, pt 1, div 8, sdiv 3

Chapter 2, part 1, division 8—

insert—

Subdivision 3 Special amendment of relinquishment requirements or work program

107A Application for special amendment

- (1) The holder of an authority to prospect may apply to the Minister to approve an amendment (a *special amendment*) of either or both of the following—
 - (a) the operation of the relinquishment requirements for the authority to prospect;
 - (b) the work program for the authority to prospect.

[s 124C]

- (2) The application must state the circumstances that exist in relation to the authority to prospect and how the circumstances justify the special amendment.

Example—

A special amendment of an authority to prospect might be justified on the basis the amendment is appropriate because the authority forms part of a wider project.

- (3) The application must be accompanied by the prescribed fee.

107B Special amendment of relinquishment requirements

- (1) If the Minister approves a special amendment of the operation of the relinquishment requirements for an authority to prospect, the relinquishment requirements have effect subject to the special amendment.
- (2) In approving the special amendment, the Minister may also approve a change of the conditions of the authority to prospect.
- (3) On the day the approval takes effect, the change of the conditions also takes effect.

107C Special amendment of work program

- (1) If the Minister approves a special amendment of the work program for an authority to prospect, the work program as amended has effect as if the amendment had been approved under division 3, subdivision 6.
- (2) In approving the special amendment, the Minister may also approve a change of the conditions of the authority to prospect.
- (3) On the day the approval takes effect, the change of the conditions also takes effect.

107D Approval of special amendment

- (1) The Minister may approve a special amendment under this subdivision if the Minister considers the amendment is justified in the circumstances.
- (2) Without limiting the matters the Minister may have regard to, the Minister may have regard to—
 - (a) the optimisation of the development and use of the State's petroleum resources; and
 - (b) whether, in the circumstances, the relinquishment requirements or the work program amendment provisions allow for sufficient flexibility to achieve the optimisation mentioned in paragraph (a).

124D Amendment of s 118 (Requirements for making ATP-related application)

Section 118(e)—

omit, insert—

- (e) if the proposed authorised activities relate to petroleum production—include a statement by a suitably qualified person that the proposed area contains commercial quantities of petroleum; and

124E Amendment of s 121 (Requirements for grant)

Section 121(1)(b)(ii)—

omit, insert—

- (ii) if the authorised activities relate to petroleum production—contains commercial quantities of petroleum; and

[s 125]

125 Amendment of s 175AA (When holder may apply to change production commencement day)

(1) Section 175AA(b)—

omit.

(2) Section 175AA(c), after ‘1 year’—

insert—

, or a shorter period prescribed by regulation,

(3) Section 175AA(c), as amended—

renumber as section 175AA(b).

126 Amendment of s 175AB (Requirements for making application)

Section 175AB—

insert—

(2) The holder must also give the Minister information, documents or instruments detailing all relevant arrangements relating to the lease unless the holder—

(a) has already given the Minister the information, documents or instruments in complying with section 121(1)(g); and

(b) lodges a written declaration that there has been no change in the relevant arrangements.

(3) If the holder has already given the Minister the information, documents or instruments in complying with section 121(1)(g) but a relevant arrangement has been changed, the holder must give the Minister the details of the changed arrangement that the Minister reasonably requires to decide whether the lease is an arms-length commercial transaction.

127 Amendment of s 175AC (Deciding application)

(1) Section 175AC(4)—

renumber as section 175AC(5).

(2) Section 175AC—

insert—

(4) The Minister may refuse the application if the Minister reasonably believes—

(a) a relevant arrangement relating to the lease is not an arms-length commercial transaction; or

(b) supply under the arrangement is unlikely to be carried out.

(3) Section 175AC—

insert—

(6) The Minister may not decide to change the production commencement day to a day that is earlier than the day the decision is made.

(7) The holder of the petroleum lease is taken not to be in breach of the holder's obligation under section 154(1) before the first of the following happens—

(a) the Minister decides whether to change the production commencement day to a new day, and the decision is not appealed or, if there is an appeal, the appeal is finalised;

(b) the Minister changes the production commencement day with the agreement of the lessee under subsection (2).

128 Insertion of new ss 851AB and 851AC

After section 851AA—

insert—

851AB Period of effect of particular later work programs

- (1) This section applies if—
 - (a) before the commencement of this section, the holder of an authority to prospect was given, under section 58, a notice (the *notice*) of the approval of a proposed later work program for the authority; and
 - (b) the notice was given to the holder of the authority after the start of the period of the proposed program as stated in the proposed program.
- (2) For an Act, the approval has effect, and is taken to have had effect, from—
 - (a) the start of the period; or
 - (b) if the notice stated a later day of effect—the later day.
- (3) The notice is, and is taken always to have been, valid and effective—
 - (a) even though the notice was given after the commencement of the period stated for the proposed program; and
 - (b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the program before the approval was given; and
 - (c) regardless of the extent to which section 57(2)(b) and (c) was complied with.

Example for paragraph (c)—

It does not matter if a work program was considered under section 57(2)(b) but was not current at the time of its consideration.

- (4) This section applies despite chapter 2, part 1, division 3.

851AC Period of effect of particular later development plans

- (1) This section applies if—
 - (a) before the commencement of this section, the holder of a petroleum lease was given, under section 149, a notice (the *notice*) of the approval of a proposed later development plan for the lease; and
 - (b) the notice was given to the holder of the lease after the start of the plan period for the proposed plan as stated in the proposed plan.
- (2) For an Act, the approval has effect, and is taken to have had effect, from—
 - (a) the start of the plan period; or
 - (b) if the notice stated a later day of effect—the later day.
- (3) The notice is, and is taken always to have been, valid and effective—
 - (a) even though the notice was given after the commencement of the plan period stated for the proposed plan; and
 - (b) whether or not the notice purported, expressly or impliedly, to approve the carrying out of work under the plan before the approval was given; and
 - (c) regardless of the extent to which section 147(2)(b) was complied with.

Example for paragraph (c)—

It does not matter if a development plan was considered under section 147(2)(b) but was not current at the time of its consideration.

- (4) This section applies despite chapter 2, part 2, division 4.

[s 129]

129 Insertion of new s 851AD

After section 851AC, as inserted by this Act—

insert—

851AD Extended period for applying to change production commencement day

- (1) This section applies if a petroleum lease states a production commencement day for the lease, and—
 - (a) before the commencement of this section, the holder of the lease—
 - (i) did not start petroleum production under the lease so as to comply with section 154(1); and
 - (ii) did not make an application under section 175AA to change the production commencement day for the lease; or
 - (b) on the commencement of this section, the holder of the lease—
 - (i) reasonably considers the holder is unlikely to be able to start petroleum production under the lease so as to comply with section 154(1) unless the production commencement day for lease is changed to a later date; and
 - (ii) either—
 - (A) is unable to make an application under section 175AA to change the production commencement day because the conditions under that section for making the application can not be complied with; or

-
- (B) reasonably considers the holder is unlikely to be able make a suitable application under section 175AA in the time remaining before the start of 1 year, or shorter prescribed period, mentioned in section 175AA(b).
- (2) Despite section 175AA(b), the holder may apply under section 175AA in relation to the production commencement day for the lease, but only if—
- (a) the application is made no later than 6 months after the commencement of this section; and
 - (b) the application otherwise complies with chapter 2, part 2, division 7, subdivision 3.
- (3) The holder of the petroleum lease is taken not to be in breach of the holder's obligation under section 154(1) until—
- (a) if an application under section 175AA is not made as provided for under subsection (2)—the 6 months mentioned in subsection (2)(a) ends; or
 - (b) if an application under section 175AA is made as provided for under subsection (2)—the Minister decides, under section 175AC, whether to change the production commencement day to a new day, and the decision is not appealed or, if there is an appeal, the appeal is finalised.

129A Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

[s 129A]

2-year extension means the extension by 2 years of an authority to prospect or a program period for a work program as provided for in chapter 2, part 1, division 3, subdivision 7.

12-year period, for an authority to prospect, means—

- (a) the period of 12 years commencing on the grant of the authority to prospect; or
- (b) if it is a renewed authority as mentioned in section 85—the period of 12 years from when the authority to prospect originally took effect.

current work program, for chapter 2, part 1, division 3, subdivision 7, includes a later work program that, before the commencement of the subdivision, had been lodged under section 79 and, after the commencement, approved.

extended remaining period, for a work program, means the remaining time of the program period for the work program as extended under chapter 2, part 1, division 3, subdivision 7.

relinquishment requirements, for an authority to prospect, means the requirements, including the relinquishment condition, applying under chapter 2, part 1, division 4, subdivision 2 about how much, and when, any part of the area of the authority to prospect must be relinquished.

special amendment see section 107A.

work program amendment provisions means chapter 2, part 1, division 3, subdivision 6.

Part 11 Amendment of Water Act 2000

130 Act amended

This part amends the *Water Act 2000*.

131 Amendment of s 24 (Limiting taking of water under s 20A(2))

(1) Section 24, heading, ‘s 20A(2)’—

omit, insert—

s 20 or 20A

(2) Section 24(1)—

omit, insert—

(1) If there is a shortage of water, the chief executive may, by publishing a notice, limit or prohibit either of the following—

- (a) the taking, under section 20(2)(a), of water from a watercourse, lake or spring for a relevant purpose;
- (b) the taking, under section 20A(1), (2) or (5), of water for a relevant purpose.

(3) Section 24(4), penalty, ‘for subsection (4)’—

omit.

(4) Section 24—

insert—

(5) In this section—

relevant purpose means either of the following—

- (a) the domestic purpose of watering a garden;
- (b) stock purposes generally.

[s 132]

132 Insertion of new ch 2, pt 6, div 3A

After section 236—

insert—

Division 3A Validation provision

236A Validation of particular decisions about water licences

- (1) Subsection (2) applies to a decision of the chief executive, made or purportedly made under this Act before the commencement, to do any of the following—
 - (a) grant all or part of an application for a water licence under section 211;
 - (b) grant a water licence under section 212(2);
 - (c) grant an application to amend a water licence on an application made under section 216;
 - (d) amend a water licence under section 217, 218 or 219;
 - (e) approve an application to renew a water licence under section 220(4);
 - (f) approve an application to reinstate a water licence on an application made under section 221;
 - (g) grant an application as mentioned in section 223 for the transfer, amendment or amalgamation of all or part of a water licence;
 - (h) grant an application to amalgamate 2 or more water licences into a single licence on an application made under section 224;
 - (i) grant 2 or more new water licences to replace an original licence on an application made under section 225;

-
- (j) grant an application for 1 or more water licences to replace a jointly held water licence under section 229.
- (2) The decision is taken to be, and to always have been, valid.
- (3) Subsection (2) does not apply to a decision if, within 6 months after the decision was made or purportedly made—
- (a) the decision was, or is, the subject of—
- (i) an application for internal review under chapter 6, part 2; or
- (ii) an appeal or application for external review under chapter 6, part 3; or
- (iii) an application for a statutory order of review, or an application for review, under the *Judicial Review Act 1991*; or
- (b) a person applied, or applies, to the Supreme Court for an order declaring a relevant instrument for the decision to be invalid.
- (4) A decision mentioned in subsection (3) is not invalid only because it is not a decision to which subsection (2) applies.
- (5) In this section—
- decision***, to grant, approve or amend, does not include a decision to refuse to grant, approve or amend.
- relevant instrument***, for a decision mentioned in subsection (1), means a water resource plan, resource operations plan or water licence that applies to the parcel, or parcels, of land to which the decision relates.

132A Insertion of new ch 2, pt 9, div 6

Chapter 2, part 9—

[s 132A]

insert—

Division 6 Validation provision

293 Continuation of quarry material extraction

- (1) This section applies if—
 - (a) immediately before 7 May 2010—
 - (i) a person (the *quarry operator*) held an authority issued under an Act to extract quarry material from an area (the *resource area*); and
 - (ii) the quarry operator did not require another authority of any kind to be issued under this Act to extract the material from the resource area; and
 - (b) on 7 May 2010, the resource area became a part of a watercourse; and
 - (c) since the resource area became a part of a watercourse, the quarry operator has extracted material in the resource area under the relevant authority.
- (2) It is declared, for the purposes of the relevant authority, that the resource area for the authority, from the day the authority was issued, is taken to have extended to the lower bank of the watercourse.
- (3) It is further declared, for the purposes of the relevant authority, that the extraction of quarry material from the resource area on and from 7 May 2010 is lawful, and is taken to have always been lawful, to the same extent it would have been lawful if—
 - (a) the extraction was carried out immediately before 7 May 2010; and

-
- (b) the declaration under subsection (2) had been made on the day the authority was issued.
- (4) On the commencement, the quarry holder is authorised, without being the holder of an allocation notice, to continue to extract quarry material from the resource area under the holder's relevant authority at the maximum rate stated in the authority.
- (5) The extension of the resource area to the lower bank and the authorisation under subsection (4) end 5 years after the commencement.
- (6) In this section—

commencement means the commencement of this section.

quarry material includes stone, gravel, sand, rock, clay, earth and soil, but does not include—

- (a) minerals within the meaning of the *Mineral Resources Act 1989*; or
- (b) topsoil, if quarry material is reserved in a deed of grant; or
- (c) topsoil on a freeholding lease.

relevant authority—

- (a) means the authority mentioned in subsection (1)(a)(i); and
- (b) includes an authority, issued under an Act, that in substance replaces, or is a succeeding authority for, the authority mentioned in subsection (1)(a)(i).

[s 133]

Part 12 **Amendment of subordinate legislation**

Division 1 **Amendment of Sustainable Planning Regulation 2009**

133 **Regulation amended**

This division amends the *Sustainable Planning Regulation 2009*.

134 **Amendment of sch 3 (Assessable development, self-assessable development and type of assessment)**

- (1) Schedule 3, part 1, table 4, item 3, column 2, paragraph (b), 'schedule 4'—

omit, insert—

schedule 4, other than through a monitoring bore

- (2) Schedule 3, part 1, table 4, item 3, column 2, paragraph (c)(ii)—

omit, insert—

(ii) subartesian water—

(A) if the operations are mentioned as assessable development in a water resource plan or a wild river declaration, or prescribed as assessable development under a regulation under the *Water Act 2000*; and

(B) other than through an exempt bore; or

- (3) Schedule 3, part 2, table 4, item 1, column 2, paragraph (b)(ii)—

omit, insert—

-
- (ii) subartesian water—
 - (A) if the operations are mentioned as self-assessable development in a water resource plan or a wild river declaration; and
 - (B) other than through an exempt bore; or

135 Amendment of sch 26 (Dictionary)

Schedule 26—

insert—

domestic purposes see the *Water Act 2000*, schedule 4.

exempt bore means—

- (a) a monitoring bore; or
- (b) for taking or interfering with water outside the Great Artesian Basin plan area—any of the following—
 - (i) a water bore for working out the sustainable extraction rate of water for an aquifer;
 - (ii) a water bore for taking water for stock or domestic purposes;
 - (iii) a replacement water bore.

Great Artesian Basin plan area means the plan area under the *Water Resource (Great Artesian Basin) Plan 2006*, schedule 6.

monitoring bore means a water bore used for monitoring—

- (a) the physical characteristics of an aquifer; or
- (b) the physical, chemical or biological characteristics of water in an aquifer.

[s 136]

Examples of physical characteristics of water—

standing water level, water discharge rate, water pressure

replacement water bore means a water bore that—

- (a) is constructed or installed—
 - (i) to replace a water bore (the ***previous bore***) used for the taking of, or interfering with, water—
 - (A) for which a development permit was held or, under the *Water Act 2000* section 1048A, was taken to be held; or
 - (B) which, under section 681(1) of the Act, was taken to be a lawful use of the premises in which the previous bore was constructed or installed; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

stock purposes see the *Water Act 2000*, schedule 4.

water bore see the *Water Act 2000*, schedule 4.

Division 2 Amendment of Water Regulation 2002

136 Regulation amended

This division amends the *Water Regulation 2002*.

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- 137 Amendment of s 23 (Conditions of water bore driller's licence—Act, s 302)**
Section 23(d), 'item 1(b)(iii)'—
omit, insert—
item 1(b)(ii)
- 138 Amendment of s 62 (Code for self-assessable development—Act, s 1014)**
Section 62(d), 'item 1(b)(iii)'—
omit, insert—
item 1(b)(ii)
- 139 Amendment of s 102 (Declared subartesian areas—Act, s 1046)**
(1) Section 102(1), 'schedule 11, column 1'—
omit, insert—
schedule 11, part 1, column 1
(2) Section 102(2) and (3), 'column 2'—
omit, insert—
schedule 11, part 1, column 2
(3) Section 102(4), from 'solely' to 'column 3'—
omit, insert—
works mentioned in schedule 11, part 1, column 3
- 140 Insertion of new s 102A**
Part 9, division 2—
insert—
-

[s 140A]

102A Critical distances for non-stock or domestic bores in particular subartesian areas

- (1) This section applies to a non-stock or domestic bore in a subartesian area mentioned in schedule 11, part 2, column 1.
- (2) The *critical distance* of the bore from a boundary of a parcel of land is the distance stated opposite the area in schedule 11, part 2, column 2.
- (3) The *critical distance* of the bore from a watercourse is the distance stated opposite the area in schedule 11, part 2, column 3.
- (4) The *critical distance* of the bore from another water bore is the distance stated opposite the area in schedule 11, part 2, column 4.

140A Insertion of new pt 9, div 12

Part 9—

insert—

Division 12 Transitional provision for Land and Other Legislation Amendment Act 2014

133 Great Artesian Basin subartesian area as Greater Western subartesian area

- (1) The Great Artesian Basin subartesian area, declared under the pre-amended regulation and in existence immediately before the commencement, continues in existence with the name Greater Western subartesian area as if that name had been given to it under section 102(1) of the pre-amended regulation.
- (2) In this section—
pre-amended regulation means this regulation as in force immediately before the commencement.

141 Replacement of sch 11 (Subartesian areas)

Schedule 11—

omit, insert—

Schedule 11 Subartesian areas

Part 1 Areas, purposes and works

section 102

Column 1	Column 2	Column 3
Area and plan	Purposes for which water entitlement, water permit or seasonal water assignment notice not required	Works not assessable
Bluewater subartesian area on plan AP10053	—	an exempt bore
Bowen subartesian area on plan CAS3065	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Burdekin subartesian area on plan AP10054	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore

[s 141]

Column 1	Column 2	Column 3
Area and plan	Purposes for which water entitlement, water permit or seasonal water assignment notice not required	Works not assessable
Cattle Creek subartesian area on plan AP10060	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Clarendon subartesian area on plan AP10066	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Cook subartesian area on plan CAS3056	stock or domestic purposes	(a) works for stock or domestic purposes (b) an exempt bore
Cressbrook Creek subartesian area on plan AP10064	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore

[s 141]

Column 1	Column 2	Column 3
Area and plan	Purposes for which water entitlement, water permit or seasonal water assignment notice not required	Works not assessable
Dryander subartesian area on plan CAS1827	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Duck Farm subartesian area on plan AP10049	—	an exempt bore
Eastern Downs subartesian area on plan AP12072 sheets 29 to 34	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Farnborough subartesian area on plan AP10058	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Fraser Island subartesian area on plan AP10063	(a) domestic purposes (b) a prescribed activity	(a) works for a prescribed activity (b) an exempt bore

[s 141]

Column 1	Column 2	Column 3
Area and plan	Purposes for which water entitlement, water permit or seasonal water assignment notice not required	Works not assessable
Greater Western subartesian area on plan CAS2054	(a) stock purposes from subartesian aquifers not connected to artesian aquifers (b) domestic purposes (c) a prescribed activity	(a) works for a prescribed activity (b) an exempt bore
Highlands subartesian area on plan CAS2055	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Monto subartesian area on plan AP10061	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore

[s 141]

Column 1	Column 2	Column 3
Area and plan	Purposes for which water entitlement, water permit or seasonal water assignment notice not required	Works not assessable
Moreton Island subartesian area on plan AP10065	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Mulgildie subartesian area on plan AP12081 sheets 1 to 16	all purposes	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
North Stradbroke Island subartesian area on plan AP10067	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore
Sarina subartesian area on plan CAS1672	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore

[s 141]

Column 1	Column 2	Column 3
Area and plan	Purposes for which water entitlement, water permit or seasonal water assignment notice not required	Works not assessable
Upper Georgina subartesian area	(a) stock or domestic purposes (b) a prescribed activity	(a) works for stock or domestic purposes (b) works for a prescribed activity (c) an exempt bore

Part 2 Critical distances for non-stock or domestic water bores

Column 1	Column 2	Column 3	Column 4
Subartesian area as mentioned in part 1, column 1	Critical distance from a boundary of a parcel of land	Critical distance from a watercourse	Critical distance from another water bore
Bowen subartesian area	100m	—	—
Burdekin subartesian area	200m	—	400m
Cattle Creek subartesian area	100m	—	200m

[s 141]

Column 1	Column 2	Column 3	Column 4
Subartesian area as mentioned in part 1, column 1	Critical distance from a boundary of a parcel of land	Critical distance from a watercourse	Critical distance from another water bore
Clarendon subartesian area	100m	50m	200m
Cook subartesian area	200m	—	400m
Cressbrook Creek subartesian area	100m	50m	200m
Dryander subartesian area	200m	40m	400m
Duck Farm subartesian area	200m	—	400m
Eastern Downs subartesian area	200m	—	400m
Great Artesian Basin subartesian area	200m	—	400m
Highlands subartesian area	200m	—	400m
Monto subartesian area	100m	—	200m
Moreton Island subartesian area	100m	—	200m
Mulgildie subartesian area	100m	—	200m

[s 142]

Column 1	Column 2	Column 3	Column 4
Subartesian area as mentioned in part 1, column 1	Critical distance from a boundary of a parcel of land	Critical distance from a watercourse	Critical distance from another water bore
Sarina subartesian area	200m	40m	400m

142 Amendment of sch 17 (Dictionary)

Schedule 17—

insert—

critical distance, of a non-stock or domestic water bore in a subartesian area mentioned in schedule 11, part 2, column 1, from—

- (a) a boundary of a parcel of land—see section 102A(2); or
- (b) a watercourse—see section 102A(3); or
- (c) another water bore—see section 102A(4).

exempt bore means any of the following—

- (a) a water bore used for monitoring the physical, chemical or biological characteristics of water in an aquifer;

Examples of physical characteristics of water—

standing water level, water discharge rate, water pressure

- (b) a water bore for testing the water production capacity, water production quality or hydraulic properties of an aquifer;
- (c) a water bore for taking water for stock or domestic purposes;
- (d) a non-stock or domestic water bore constructed, erected or installed in a

subartesian area mentioned in schedule 11, part 2, column 1, but not within the critical distance from a boundary of a parcel of land, a watercourse or another water bore;

(e) a replacement water bore.

non-stock or domestic water bore means a water bore for taking water for a purpose other than a stock or domestic purpose.

prescribed activity means an activity mentioned in schedule 1 for a general authorisation to take water.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
- (i) to replace a water bore (the ***previous bore***) used for the taking of, or interfering with, water—
 - (A) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
 - (B) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

[s 143]

Division 3 Amendment of Water Resource (Barron) Plan 2002

143 Plan amended

This division amends the *Water Resource (Barron) Plan 2002*.

144 Amendment of s 51 (Relationship with Sustainable Planning Act 2009)

(1) Section 51(1)—

omit, insert—

- (1) Works for taking subartesian water for stock or domestic purposes in the Atherton Subartesian Area or the Cairns Northern Beaches Subartesian Area are self-assessable development for the *Sustainable Planning Regulation 2009*, schedule 3, part 2, table 4, item (1)(b)(ii).

(2) Section 51—

insert—

(2A) However, subsections (1) and (2) do not apply to any of the following works—

- (a) a water bore used for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer;

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

- (b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;
- (c) a water bore for taking subartesian water for stock or domestic purposes;

- (d) a water bore, for taking subartesian water for a purpose other than a stock or domestic purpose, that is not constructed, erected or installed within—
 - (i) 200m of a boundary of a parcel of land or a watercourse; or
 - (ii) 400m of another water bore;
- (e) a replacement water bore.

(3) Section 51(3)—

omit, insert—

(3) In this section—

previous bore means a water bore used for the taking of, or interfering with, water—

- (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
- (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
 - (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

(4) Section 51(2A) and (3)—

renumber as section 51(3) and (4).

[s 145]

Division 4 Amendment of Water Resource (Burnett Basin) Plan 2000

145 Plan amended

This division amends the *Water Resource (Burnett Basin) Plan 2000*.

146 Amendment of s 30F (Relationship with Sustainable Planning Act 2009)

Section 30F—

insert—

(2) However, subsection (1) does not apply to any of the following works—

(a) a water bore used for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer;

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

(b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;

(c) a water bore for taking subartesian water for stock or domestic purposes;

(d) a water bore, for taking subartesian water for a purpose other than a stock or domestic purpose, that is not constructed, erected or installed within—

(i) 100m of a boundary of a parcel of land;
or

(ii) 200m of another water bore; or

- (iii) 200m of Elliott River;
- (e) a replacement water bore.
- (3) In this section—
 - previous bore* means a water bore used for the taking of, or interfering with, water—
 - (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
 - (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
 - (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

Division 5 Amendment of Water Resource (Fitzroy Basin) Plan 2011

147 Plan amended

This division amends the *Water Resource (Fitzroy Basin) Plan 2011*.

148 Amendment of s 117 (Relationship with Sustainable Planning Act 2009)

- (1) Section 117(1)(b) and (2)(b), ‘item 1(b)(iii)’—

[s 148]

omit, insert—

item 1(b)(ii)

(2) Section 117(2)(c)—

omit.

(3) Section 117(2)(d), ‘item 1(b)(iii)’—

omit, insert—

item 1(b)(ii)

(4) Section 117(2)(d)—

renumber as section 117(2)(c).

(5) Section 117—

insert—

(3) However, subsections (1) and (2) do not apply to any of the following works—

(a) a water bore used for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer;

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

(b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;

(c) a water bore for taking subartesian water for stock or domestic purposes;

(d) a water bore, for taking subartesian water for a purpose other than a stock or domestic purpose, that is not constructed, erected or installed within—

(i) 200m of a boundary of a parcel of land or a watercourse; or

-
- (ii) 400m of another water bore;
 - (e) a replacement water bore.
 - (4) In this section—
 - previous bore** means a water bore used for the taking of, or interfering with, water—
 - (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
 - (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
 - (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

Division 6 Amendment of Water Resource (Great Artesian Basin) Plan 2006

149 Plan amended

This division amends the *Water Resource (Great Artesian Basin) Plan 2006*.

150 Amendment of s 35 (Relationship with Sustainable Planning Act 2009)

- (1) Section 35(1)(b) and (2)(b) and (c), ‘item 1(b)(iii)’—

[s 151]

omit, insert—

item 1(b)(ii)

(2) Section 35—

insert—

- (3) However, subsections (1) and (2) do not apply to works for a water bore for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer.

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

Division 7 Amendment of Water Resource (Gulf) Plan 2007

151 Plan amended

This division amends the *Water Resource (Gulf) Plan 2007*.

152 Amendment of s 83 (Relationship with Sustainable Planning Act 2009)

Section 83—

insert—

- (3) However, subsections (1) and (2) do not apply to any of the following works—
- (a) a water bore used for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer;

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

- (b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;
- (c) a water bore for taking subartesian water for stock or domestic purposes;
- (d) a water bore, for taking subartesian water for a purpose other than a stock or domestic purpose, that is not constructed, erected or installed within—
 - (i) 200m of a boundary of a parcel of land; or
 - (ii) 400m of another water bore;
- (e) a replacement water bore.

(4) In this section—

previous bore means a water bore used for the taking of, or interfering with, water—

- (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
- (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
 - (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and

[s 153]

- (b) taps the same aquifer tapped by the previous bore.

Division 8 Amendment of Water Resource (Mary Basin) Plan 2006

153 Plan amended

This division amends the *Water Resource (Mary Basin) Plan 2006*.

154 Amendment of s 79 (Relationship with Sustainable Planning Act 2009)

- (1) Section 79(2), 'item 1(b)(iii)'—
omit, insert—
 - item 1(b)(ii)
- (2) Section 79—
insert—
 - (3) However, subsections (1) and (2) do not apply to any of the following works—
 - (a) a water bore used for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer;
Examples of physical characteristics of subartesian water—
 - standing water level, water discharge rate, water pressure
 - (b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;
 - (c) a water bore for taking subartesian water for stock or domestic purposes;

(d) a replacement water bore.

(4) In this section—

previous bore means a water bore used for the taking of, or interfering with, water—

- (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
- (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
 - (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

Division 9 Amendment of Water Resource (Mitchell) Plan 2007

155 Plan amended

This division amends the *Water Resource (Mitchell) Plan 2007*.

156 Amendment of s 59 (Relationship with Sustainable Planning Act 2009)

- (1) Section 59(2)(b), ‘item 1(b)(iii)’—
omit, insert—

item 1(b)(ii)

(2) Section 59—

insert—

(3) However, subsections (1) and (2) do not apply to any of the following works—

- (a) a water bore used for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer;

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

- (b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;

- (c) a water bore for taking subartesian water for stock or domestic purposes;

- (d) a water bore, for taking subartesian water for a purpose other than a stock or domestic purpose, that is not constructed, erected or installed within—

- (i) 200m of a boundary of a parcel of land;
or

- (ii) 400m of another water bore;

- (e) a replacement water bore.

(4) In this section—

previous bore means a water bore used for the taking of, or interfering with, water—

- (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or

- (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
- (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

Division 10 Amendment of Water Resource (Moreton) Plan 2007

157 Plan amended

This division amends the *Water Resource (Moreton) Plan 2007*.

158 Amendment of s 84 (Relationship with Sustainable Planning Act 2009)

- (1) Section 84(2), ‘item 1(b)(iii)’—
omit, insert—
 item 1(b)(ii)
- (2) Section 84—
insert—
- (3) However, subsections (1) and (2) do not apply to any of the following works in the Cressbrook Creek Alluvial groundwater management area or

[s 158]

the Lockyer Valley groundwater management area—

- (a) a water bore used for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer;

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

- (b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;
- (c) a water bore for taking subartesian water for stock or domestic purposes;
- (d) a water bore, for taking subartesian water for a purpose other than a stock or domestic purpose, if the bore—
- (i) is used for taking water under a water allocation for which there is a volumetric limit; and
 - (ii) is not constructed, erected or installed within—
 - (A) 100m of a boundary of a parcel of land; or
 - (B) 200m of another water bore; or
 - (C) 50m from a watercourse;
- (e) a replacement water bore.
- (4) In this section—

previous bore means a water bore used for the taking of, or interfering with, water—

-
- (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
 - (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
 - (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

Division 11 Amendment of Water Resource (Pioneer Valley) Plan 2002

159 Plan amended

This division amends the *Water Resource (Pioneer Valley) Plan 2002*.

160 Amendment of s 49ZC (Relationship with Integrated Planning Act 1997)

- (1) Section 49ZC, heading, '*Integrated Planning Act 1997*'—
omit, insert—

Sustainable Planning Act 2009

- (2) Section 49ZC(1), (2) and (4), from '*Integrated*'—
omit, insert—

[s 160]

Sustainable Planning Regulation 2009, schedule 3,
part 2, table 4, item 1(b)(ii).

(3) Section 49ZC—

insert—

(4A) However, subsections (1) and (2) do not apply to
any of the following works—

(a) a water bore used for monitoring the
physical, chemical or biological
characteristics of subartesian water in an
aquifer;

*Examples of physical characteristics of subartesian
water—*

standing water level, water discharge rate, water
pressure

(b) a water bore for determining the sustainable
extraction rate of subartesian water for an
aquifer;

(c) a water bore for taking subartesian water for
stock or domestic purposes;

(d) a water bore, for taking subartesian water
for a purpose other than a stock or domestic
purpose, that is not is not constructed,
erected or installed within—

(i) 200m of—

(A) a boundary of a parcel of land; or

(B) a boundary of subcatchment area
10; or

(C) a relevant watercourse; or

(ii) 400m of another water bore; or

(iii) 100m of a watercourse, other than a
relevant watercourse;

(e) a replacement water bore.

(4) Section 49ZC(5)—

insert—

previous bore means a water bore used for the taking of, or interfering with, water—

- (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
- (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

relevant watercourse means any of the following—

- (a) Finch Hatton Creek;
- (b) Cattle Creek;
- (c) Owen Creek;
- (d) McGregor Creek;
- (e) Sandringham Lagoon.

replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
 - (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

(5) Section 49ZC(4A) and (5)—

renumber as section 49ZC(5) and (6).

160A Amendment of sch 10 (Dictionary)

Schedule 10, definition *authorisation 16*—

[s 161]

omit, insert—

authorisation 16 means a water licence, commonly known as either of the following, to take groundwater—

- (a) water licence 85040L;
- (b) water licence 408846.

Division 12 Amendment of Water Resource (Wet Tropics) Plan 2013

161 Plan amended

This division amends the *Water Resource (Wet Tropics) Plan 2013*.

162 Amendment of s 62 (Relationship with Sustainable Planning Act 2009)

- (1) Section 62(1), ‘item 1(b)(iii)’—

omit, insert—

item 1(b)(ii)

- (2) Section 62(1)(b)—

omit, insert—

- (b) a water bore constructed, installed or erected—
 - (i) to replace a water bore (the **replaced bore**) for which a development permit was held or, under section 1048A of the Act, was taken to be held; and
 - (ii) at least 10m from the replaced bore.

(3) Section 62—

insert—

(1A) However, subsection (1) does not apply to any of the following works—

- (a) a water bore used for monitoring the physical, chemical or biological characteristics of subartesian water in an aquifer;

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

- (b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;
- (c) a water bore for taking subartesian water for stock or domestic purposes;
- (d) a water bore, for taking subartesian water for a purpose other than a stock or domestic purpose, that is constructed, installed or erected at least 400m from another water bore;
- (e) a water bore—
- (i) constructed, installed or erected to replace a previous bore; and
- (ii) constructed, installed or erected within 10m of the previous bore; and
- (iii) that taps the same aquifer tapped by the previous bore.

(4) Section 62(2), definition *replacement water bore*—

omit.

(5) Section 62(2)—

insert—

[s 163]

previous bore means a water bore used for the taking of, or interfering with, water—

- (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
 - (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.
- (6) Section 62(1A) and (2)—
renumber as section 62(2) and (3).

Division 13 Amendment of Water Resource (Whitsunday) Plan 2010

163 Plan amended

This division amends the *Water Resource (Whitsunday) Plan 2010*.

164 Amendment of s 78 (Relationship with Sustainable Planning Act 2009)

- (1) Section 78(1), ‘item 1(b)(iii)’—
omit, insert—
 item 1(b)(ii)
- (2) Section 78—
insert—
 - (4) Also, subsections (1) and (2) do not apply to any of the following works—
 - (a) a water bore used for monitoring the physical, chemical or biological

characteristics of subartesian water in an aquifer;

Examples of physical characteristics of subartesian water—

standing water level, water discharge rate, water pressure

- (b) a water bore for determining the sustainable extraction rate of subartesian water for an aquifer;
 - (c) a water bore for taking subartesian water for stock or domestic purposes;
 - (d) a water bore, for taking subartesian water for a purpose other than a stock or domestic purpose, that is not constructed, erected or installed within—
 - (i) 200m of a boundary of a parcel of land; or
 - (ii) 400m of another water bore; or
 - (iii) 200m of a watercourse;
 - (e) a replacement water bore.
- (5) In this section—

previous bore means a water bore used for the taking of, or interfering with, water—

- (a) for which a development permit was held or, under section 1048A of the Act, was taken to be held; or
- (b) which, under the *Sustainable Planning Act 2009*, section 681(1), was taken to be a lawful use of the premises in which the previous bore was constructed, installed or erected.

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replacement water bore means a water bore that—

- (a) is constructed, installed or erected—
 - (i) to replace a previous bore; and
 - (ii) within 10m of the location of the previous bore; and
- (b) taps the same aquifer tapped by the previous bore.

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