Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Bill 2018

Explanatory Notes

Short title

The short title of the Bill is the Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Bill 2018 (the Bill).

Policy objectives and the reasons for them

Amendment of *Nature Conservation Act 1992*

It is widely recognised that government alone cannot adequately protect Queensland's expansive and rich biodiversity. The state recognises the vital role that landholders of privately owned or managed land can play in ensuring that representative and viable samples of Queensland's biodiversity are protected in perpetuity.

Areas of outstanding conservation value are not restricted to national parks, such areas frequently occur on privately owned or managed land. It is neither feasible nor practical to incorporate all such areas into the state-owned and managed protected area estate. The Nature Conservation Act currently provides for privately managed protected areas (i.e. nature refuges), however at present, there is no means of comprehensively and securely protecting areas of outstanding conservation value located on privately owned or managed lands from a range of incompatible land uses.

Protection of these lands from land uses such as resource activities and native forest timber harvesting is a well-supported concept internationally, within Australia and in Queensland. The International Union for Conservation of Nature's (IUCN) system of protected area classifications recognises that private protected areas managed primarily for conservation should be an integral part of a robust protected area system.

The key objective of amendments to the Nature Conservation Act is to establish a new class of privately owned or managed protected area (special wildlife reserve) that will allow for the protection of lands of outstanding conservation value from incompatible land uses; essentially, a privately managed protected area of equivalent conservation merit and protection to that of a national park.

Establishment of the special wildlife reserve mechanism will enhance the Australian National Reserve System and will encourage private investment in Queensland's protected areas by providing a level of private land protection that does not currently exist in Queensland, or any other jurisdiction in Australia.

Other proposed amendments to the Nature Conservation Act will simplify procedural requirements for titling and record-keeping of conservation agreements and protected area declarations, and clarify who is bound by a conservation agreement entered into by a landholder.

Amendment of *Land Act 1994* and *Land Title Act 1994*

Amendments are proposed to the Land Act and Land Title Act to streamline the process by which conservation agreements, for new and existing protected areas, survive tenure dealing processes such as tenure conversion and lease renewal. Changes will deliver efficiencies for both government and protected area landholders, by allowing 'perpetual' conservation agreements to survive certain tenure processes effectively without the need for the state and landholder to enter into a new agreement.

While current arrangements have generally been effective, amendments are needed to clarify beyond doubt that an existing conservation agreement can survive a change of tenure. This will reduce the administrative burden on government and landholders, and ensure that the conservation agreements (and thus perpetual nature refuges) are not lost through administrative error. Additionally, amendments will ensure that notifications are provided when relevant tenure dealings occur on land subject to a conservation agreement, ensuring that appropriate processes and decisions occur.

Further changes to the Land Act are required to clarify that where a protected area declaration is made over a lease, the purpose of the underlying lease is consistent with nature conservation. This will clarify beyond doubt that it is clear that conservation-focussed management activities can occur on protected areas declared on leasehold land, without being inconsistent with lease requirements.

Amendment of *Environmental Offsets Act 2014*

The proposed Bill will also make minor and consequential amendments to the Environmental Offsets Act. The objectives of these amendments are to:

- recognise the new class of protected area (special wildlife reserve) under the Nature Conservation Act; and
- clarify administrative arrangements for approving offset proposals under Part 6 of the Environmental Offsets Act in relation to approvals that have or may be granted or continued under the *Planning Act 2016.*

Amendment of *Environmental Protection Act 1994*

Amendments are proposed to the Environmental Protection Act to ensure that risks to the Great Barrier Reef can be managed consistently regardless of whether potentially harmful activities are conducted wholly within Queensland waters or partly within Queensland waters and partly in adjacent Commonwealth waters, within the Great Barrier Reef Marine Park.

Achievement of policy objectives

Amendment of Nature Conservation Act

To achieve its objective, the Bill will establish a new class of voluntary, privately managed protected area (special wildlife reserve) that will provide a similar level of statutory protection to that afforded to state managed national parks. The new class of protected area will apply to freehold and leasehold tenures, and ownership and management responsibilities will remain unaffected.

The Bill will establish management principles for special wildlife reserves. These principles will provide a framework to guide management of special wildlife reserves by the landholder. A legally binding, perpetual conservation agreement, and an associated management program, will be negotiated for each special wildlife reserve. The conservation agreement and management program will detail management outcomes and actions to ensure enduring protection of each special wildlife reserve's conservation values in order to achieve the management principles. Both documents will have a statutory basis, as authorising documents, and will guide compliance actions, if necessary.

The Bill will effectively establish a binding mechanism through which to provide a high-level of protection to privately managed lands of outstanding conservation value. Furthermore, this mechanism will encourage private investment in Queensland's protected area estate, with the knowledge that investment will be offered protection from incompatible land uses (such as mining and forestry) that is not currently available in Queensland or elsewhere in Australia.

Establishment of special wildlife reserves, through introduction of the Bill, is not considered controversial as negotiation and declaration of a reserve is entirely voluntary and a conservation agreement does not impact on the rights and/or interests of other relevant parties, including Native Title holders, without consent. The concept of a special wildlife reserve is supported by key stakeholders in the conservation land management sector. Government is committed to applying this mechanism on a case-by-case basis, in full consideration of all interests (including state interests in resources, forestry and agriculture) relevant to the proposal area.

Amendment of Land Act and Land Title Act

Changes are proposed to the Land Act to ensure that a conservation agreement is considered a registered interest, but only for the purposes of certain tenure dealings, specifically renewal, extension, conversion, transfer and subdivision and amalgamation of a lease.

This will ensure that noting of a conservation agreement on title will continue to transfer on a change in title (that is, will 'run with the land'), without the need for the landholder of a 'perpetual' conservation agreement having to negotiate a new conservation agreement with the State prior to the acceptance of their application for lease renewal or tenure conversion. This will streamline lease renewal and tenure conversion processes for the landholder, and reduce the administrative burden for both the landholder and the State.

The proposed provisions mirror the existing provisions for the continuation of registered land management agreements under the Land Act, which have proven effective.

The approach is considered reasonable and appropriate as it seeks to ensure that the intent of registered conservation agreements that have been entered into by landholders and the State is not diminished by incidental administrative aspects of the Land Act. This may have the effect of either requiring a burdensome and time-consuming process to be placed on landholders, or, if administrative error occurs, resulting in the termination of the conservation agreement and subsequent revocation of the nature refuge or special wildlife reserve.

Amendment of Environmental Offsets Act

To achieve the objectives of the Bill, minor changes are proposed to the *Environmental Offsets Act* to recognise the new class of protected area (special wildlife reserve) under the Nature Conservation Act.

Minor amendments to the Environmental Offsets Act enable environmental offset decisions both before and after an offset condition is granted or continued under the Planning Act. These minor changes improve the effectiveness and efficiency of decision-making for that Act. Existing arrangements for prescribed activities under the Environment Protection Act, Nature Conservation Act and *Marine Parks Act 2004* are not affected.

Amendment of Environmental Protection Act

The proposed amendment will provide a head of power under the Environmental Protection Act to allow a regulation to prescribe 'environmentally relevant activities' which are conducted partly within Queensland waters and partly within Commonwealth waters, within the Great Barrier Reef Marine Park.

Alternative ways of achieving policy objectives

Amendment of Nature Conservation Act

Alternative models of achieving policy objectives were considered but have been discounted, as discussed below.

One alternative option was to establish a class of protected area that would have involved a tenure change, as is the case for national parks. This option was discounted due to complications with respect to property rights impacts which would have adversely affected the uptake of the mechanism by private entities.

A second option was to encourage private landholders to gift/donate areas of land of significant conservation value to government for dedication as a national park. This land would then be leased back to the landholder for ongoing management. This option was canvassed with stakeholders (e.g. nature conservancies and land trusts) and discounted as all parties indicated that they would be unwilling to participate in such a program.

Amendment of Land Act and Land Title Act

An alternative option was for each tenure dealing or transfer to require, as a condition, the entering into of a new conservation agreement with the State. This was considered a significant administrative burden on the landholders of these perpetual agreements that would otherwise continue but for the tenure dealing. This option also placed a large administrative burden on the State with the negotiation and subsequent declaration of each replaced agreement.

Amendments to clarify that a lease purpose is consistent with protected area declarations could have been achieved by the creation of a specific lease purpose (Conservation Lease). However this option would place costs and risks on the landholder due to the process of changing the purpose of the lease.

Amendment of Environmental Offsets Act

Changes to the Environmental Offsets Act to enable offsets for impacts on the new protected area category (special wildlife reserve) under the Nature Conservation Act are appropriate to meet the objectives of the Nature Conservation Act.

Clarifying decision making arrangements for environmental offset delivery decisions both before and after an offset condition is granted (or continued) under the Planning Act is also appropriate.

Amendment of Environmental Protection Act

The changes to the Environmental Protection Act will provide the proponents of offshore projects with a consistent regulatory framework, which is consistent with the objectives of the Act.

Estimated cost for government implementation

Amendment of Nature Conservation Act

Private protected areas, such as special wildlife reserves proposed in the Bill, are extremely cost-effective for government as acquisition and on-going management costs are met by the private sector. Use of public monies to fund government delivery of incentives and landholder services is a significantly cheaper, efficient and more far-reaching means of realising the same conservation outcome, and meeting protected area targets, compared with acquisition and on-going management of state-owned protected areas (e.g. national parks). It is well documented that private protected areas will form an increasingly important component of the protected area system, and investment in this area by government and the private sector should be encouraged.

Core costs for government implementation of the Bill include: assessment and negotiation of a proposed special wildlife reserve (e.g. staffing, field inspections, reporting, administrative checks, drafting of a conservation agreement, assessment and review of management program); on-going monitoring and landholder services (e.g.

staffing, provision of advice, property visits, compliance checks); and incentives (e.g. funding for assistance with on-ground threat mitigation measures).

To be considered as a special wildlife reserve, a proposed area must support outstanding conservation values and the landholder must possess or source high-level conservation-focussed management capabilities. Recruitment of special wildlife reserves is largely dependent on a number of factors, including the location of a proposal in relation to existing private protected areas (e.g. nature refuges) and the staff that service them; any incentives and support mechanisms offered by government to landholders; and the relative importance government places on the creation of, and support for, special wildlife reserves compared with nature refuges.

Initially, the creation and management of special wildlife reserves will be undertaken by the Department of Environment and Science (DES) staff within the existing NatureAssist budget allocation. It should be noted that this model is likely to have some impact on recruitment of nature refuges and landholder support of the almost 500 nature refuges declared within Queensland. It is anticipated that DES may require one additional full-time equivalent position for every five to 10 special wildlife reserves that are created; again dependent on factors identified above.

Policy documents to guide creation of special wildlife reserves are under development. DES staff will require training on policy and assessment methodologies, however, the delivery model will largely mirror that for nature refuges which will streamline training requirements. Intra-government assessments of state government interests, as per the Memorandum of Understanding between DES, Department of Agriculture and Fisheries and Department of Natural Resources Mines and Energy regarding protected area proposals, will have little net effect on any given party as the agreement applies to all classes of protected area.

Amendment of Land Act and Land Title Act

These amendments will contribute savings to government through reduced costs due to not having to negotiate new conservation agreements with landholders of perpetual conservation agreements.

Amendment of Environmental Offsets Act

There are no additional costs for administering agencies associated with these amendments.

Amendment of Environmental Protection Act

There are no additional costs associated with these amendments.

Consistency with fundamental legislative principles

Amendment of Nature Conservation Act
Amendment of Land Act and Land Title Act

There is no impact on fundamental legislative principles relating to the proposed amendments to create a new class of protected area, or the consequential amendments to other legislation to insert the new class of protected area. This is because the declarations are of a voluntary nature, and the landholders involved are signatories to the relevant conservation agreement. Other materially affected parties will have had to provide their consent for the proposal to proceed to declaration.

The amendment to section 51 of the Nature Conservation Act (Conservation agreements and conservation covenants binding) restricts the people who may be bound by a conservation agreement from all those with an interest in the land as currently stated in section 51, to those with an interest in land in the nature refuge to the extent specified in the conservation agreement.

While it may appear to impact upon fundamental legislative principles to bind a person who is not a signatory to an agreement, the written consent of interest holders who are materially affected, such as those to be bound by a conservation agreement, is required under section 45(2). Any subsequent interest holder, such as a future sublessee, would be entering into such an interest with the full knowledge of the conservation agreement and the nature refuge declaration.

For this reason, the amendment to section 51 does not present a significant issue in relation to fundamental legislative principles.

The amendment to section 154 of the Nature Conservation Act (Other powers of conservation officer) does extend the powers of a conservation officer to enter land, including to existing nature refuges. However, this is considered necessary for the effective implementation of the special wildlife reserve and nature refuge classes of protected areas, as it allows the capacity for conservation officers to access a protected area to investigate or monitor compliance with the conservation agreement for the area.

Powers already exist in relation to entering any land to inspect, research or report on a broad range of conservation values, and to inspect an area for suitability as a protected area. Perversely, once an area is declared a protected area, the scope of these powers of entry are arguably reduced. Existing conservation agreements contain standard provisions for entry by the State to a nature refuge. The amendment proposed in the Bill includes more safeguards for landholders than are contained in the conservation agreement provisions. For instance, a requirement to attempt to obtain consent and an extended period for written notice of intent to enter the land. To be clear, the amendment applies the existing safeguards within the Nature Conservation Act relating to powers of entry for conservation officers for other purposes.

For the reasons stated above, the amendment to section 154 does not present a significant issue in relation to fundamental legislative principles.

Additional amendments within the Bill are of an administrative nature only and as such are not considered to breach fundamental legislative principles. The amendments purely seek to clarify that conservation agreements are valid in perpetuity and therefore the land will continue to be subject to the conservation agreement, and the nature refuge or special wildlife reserve will remain valid, even if there is a tenure dealing under the Land Act.

It should be noted that where conservation agreements have specific timeframes associated with them, (e.g. number of years, expiration on a given date), or terminate upon expiry of a lease (i.e. 'non-perpetual' agreements), these proposed amendments will not affect the original intent of the conservation agreement.

Amendment of Environmental Offsets Act

The Environmental Offsets Act amendments contained in this Bill are of an administrative nature only and as such it is not considered that there is any breach of Fundamental Legislative Principles.

Amendment of Environmental Protection Act

The amendments to the Environmental Protection Act are consistent with fundamental legislative principles.

Consultation

Amendment of Nature Conservation Act
Amendment of Land Act and Land Title Act

Consultation was undertaken with stakeholders during the initial policy development and the release of an exposure draft of the legislation.

Consultation during the early policy development stage occurred primarily through meetings with key stakeholders in the conservation sector. This process was undertaken to assist government in gaining a better understanding of current issues and new directions in private and public land conservation management. Following this early consultation, further consultation was undertaken with a broad range of stakeholders in the conservation, resources, forestry, agriculture, Native Title and local government sectors. As a result of this consultation process, a number of changes were made to the special wildlife reserves proposal, including to:

- ensure the that special wildlife reserves are retained in perpetuity;
- ensure that the state retains options to continue a special wildlife area on leasehold land should a landholder surrender their lease or allow it to expire;
- ensure acknowledgement of risks associated with private ownership of land that has perpetual high level protection/restrictions is considered through the thorough assessment of landholder suitability;
- ensure that tenure resolution processes are not pre-empted by including provisions that prevent a special wildlife reserve from being declared over transferable land under the *Aboriginal Land Act 1991* and *Torres Strait Islander Land Act 1991*.

In general, the views expressed during consultation were predominantly positive, with the need for, and suitability of, proposed legislative amendments broadly agreed upon. Some interest groups did, however, argue for the continuance of certain activities on special wildlife reserves (e.g. commercial grazing, forest harvesting, mining), however this is not considered compatible with the intent of the legislation.

The Queensland Productivity Commission considered that the proposal was unlikely to result in any significant adverse impacts, and would not benefit from further assessment under the Treasurer's Regulatory Impact Statement guidelines. However, the Commission did recommend that supporting documentation regarding implementation of the proposal be provided to stakeholders through the subsequent consultation process.

Amendment of Environmental Offsets Act

External consultation on the minor and beneficial nature of the proposed administrative amendments to the Environmental Offsets Act, occurred through release of the exposure draft.

Amendment of Environmental Protection Act

Consultation with State and Commonwealth departments and agencies was undertaken. Consultation with external stakeholders will be undertaken prior to any subsequent amendments in the *Environmental Protection Regulation 2008*.

Consistency with legislation of other jurisdictions

Amendment of Nature Conservation Act

The Bill is specific to the State of Queensland, and is not uniform, or complementary to, legislation of the Commonwealth or another state. However, other jurisdictions, including South Australia and Western Australia are understood to be considering reforms to achieve similar private protected area outcomes. South Australia has outlined a proposal for a 'private reserve' protected area that is, in many ways, analogous to the proposal in this Bill.

Consultation has occurred with the Australian Government Department of the Environment and Energy that has indicated its support for the proposal, and its consistency with National Reserve System criteria and objectives.

The proposal will assist in achieving Australia's protected area obligations under the United Nations Convention on Biological Diversity (a legally-binding international treaty, to which Australia is a signatory nation).

Amendment of Land Act and Land Title Act

These changes are administrative in nature to streamline and clarify existing provisions. None of the amendments result in implications for legislation in other jurisdictions.

Amendment of Environmental Offsets Act

The proposed amendments to the Environmental Offsets Act are specific to the State of Queensland.

Amendment of Environmental Protection Act

The proposed amendments to the Environmental Protection Act are specific to the State of Queensland and extra-territorially to within the Great Barrier Reef Marine Park.

Notes on provisions

Part 1 Preliminary

1 Short title

Clause 1 states that, when enacted, the Bill may be cited as the Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Act 2018.

Part 2 Amendment of Nature Conservation Act 1992

2 Act amended

Clause 2 states that this part amends the *Nature Conservation Act 1992*.

3 Amendment of s 5 (How object is to be achieved)

Clause 3 requires that protected areas be managed in accordance with the conservation agreement and the management program for the area.

4 Amendment of s 14 (Classes of protected area to which Act applies)

Clause 4 adds special wildlife reserves to the list of classes of protected area to which the Nature Conservation Act 1992 applies.

5 Amendment of s 15 (Management of protected areas)

Clause 5 amends the list of instruments that special wildlife reserves are to be managed in accordance with. These include the conservation agreement, management program and the management principles for the class of protected area.

6 Amendment of s 17 (Management principles of national parks)

Clause 6 removes the definition of 'ecotourism' from this part of the Act, to allow for its insertion within the Dictionary schedule (see *Clause 36*).

7 Insertion of new s 21B (Management principles of special wildlife reserves)

Clause 7 defines the management principles for the special wildlife reserve class of protected area. Management of, and the conservation agreement and management program for, a special wildlife reserve must be in accordance and consistent with these principles. The management principles include standard principles that apply to all special wildlife reserves as well as optional principles that may be applied to a special wildlife reserve according to the particular values and management requirements for the area. The specific management principles for each special wildlife reserve will be stated in the special wildlife reserve's conservation agreement.

8 Amendment of s 27 (Prohibition on mining, geothermal activities and GHG storage activities)

Clause 8 adds special wildlife reserves to the list of protected area classes in relation to which a mining interest, geothermal tenure or GHG (greenhouse gas) authority cannot be generally granted, except where otherwise allowed within the section. This

provides special wildlife reserves with the same level of protection from these activities as protected areas on State land (other than resource reserves). This clause also makes it clear that this prohibition applies despite the fact that an authority could otherwise be granted on the land because of the tenure of the land.

9 Relocation and renumbering of pt 4, div 2, sdiv 4, hdg (Environmental impact statement)

Clause 9 relocates provisions relating to environmental impact statements from the division relating only to protected areas (State land) to a new division that applies to both protected areas (State land) and special wildlife reserves.

10 Amendment of s 39A (application of sdiv 4)

Clause 10 amends the heading and subsection 2 of section 39A to reflect the relocation of subdivision 4 to division 4A. This clause also adds section 43F and 43G to the list of sections to which this division applies. See clause 12 below for detail regarding the content of sections 43F and 43G.

11 Relocation and numbering of ss 39A–39C

Clause 11 relocates and renumbers sections moved due to the relocation of part 4, division 2, subdivision 4 as a result of clause 9, above.

12 Insertion of new pt 4, div 3B

Clause 12 inserts a new division that contains provisions specific to the establishment, administration and revocation of special wildlife reserves.

The new **section 43 (Application of division)** describes the application of division 3B to land tenures and its interaction with other legislation. Subsection 1 defines the types of land that a special wildlife reserve may apply to.

To avoid the possibility of the declaration of a special wildlife reserve while processes are underway to determine future tenure of lands, transferable land under the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* has been excluded from application. This exclusion is not intended to prevent the declaration of the land as a special wildlife reserve after the transfer of the land.

Subsections 3 and 4 serve to clarify that, where inconsistencies occur between provisions within the Act relating to special wildlife reserves, and provisions of other Acts, the provisions within this Act prevail. These subsections serve to clarify that the declaration of a special wildlife reserve over land prevails over other legislation that would otherwise, were the special wildlife reserve not declared, govern what can and can’t be done on the area, as private land.

The new **section 43A (Proposal for declaration of special wildlife reserve)** outlines the process by which the Minister considers a proposal to declare a special wildlife reserve, and the process by which the Minister must notify any person who has an interest in the land that is the subject of the proposal. Prior to the preparation of a proposal for declaration, the Minister must consider and take into account State interests in the area of land and consider the area’s exceptional natural and cultural resources and values before being satisfied that the area should be proposed as a

special wildlife reserve. Once satisfied, the Minister must prepare a proposal to declare the area, which describes the area to be included in the reserve, both geographically and in terms of the exceptional natural and cultural values of the land.

The Minister must give written notice of the proposal to any person who has an interest in land, such as a mortgagee, native title holder or someone with the benefit of an easement, in the area proposed for the reserve, and those who hold a specific authority as listed, in the manner described in the section.

The new **section 43B (Making conservation agreement for special wildlife reserve)** describes when the Minister must enter into a conservation agreement for a special wildlife reserve. The Minister and landholders must agree that the declaration of the area as a special wildlife reserve should occur, agree to the terms of the conservation agreement for the special wildlife reserve and there must be an approved management program for the special wildlife reserve.

However, the Minister must not enter into a conservation agreement, the precursor to a special wildlife declaration, without the written consent of persons mentioned in 43A(5) whose rights or interests will be materially affected by the agreement.

The new **section 43C (Terms of conservation agreement for special wildlife reserve)** stipulates that the conservation agreement must be consistent with the management principles for the reserve, must state that it is binding on the landholder of the land and the landholder's successors in title, and must contain terms prohibiting those things that will be statutorily prohibited on the special wildlife reserve upon its declaration. The section lists additional terms that may be included within a conservation agreement.

The new **section 43D (Declaration of special wildlife reserve)** states that an area of land subject to a conservation agreement may be declared a special wildlife reserve by way of regulation.

The new **section 43E (Agreeing to amend conservation agreement)** allows for the amendment of an existing conservation agreement where the amendment does not adversely affect the conservation of nature and is consistent with the matters described in section 43C(1). Written consent must be obtained from any person listed in 43A(5) who is materially affected by the amendment of the conservation agreement. Should the amendment result in a revocation to which section 43J applies, the amendment does not commence until such time as the regulation is made, and the original unamended conservation agreement remains in force.

The new **section 43F (Leases etc. over land in special wildlife reserve)** outlines the considerations and restrictions that apply to the granting of a lease, agreement, licence, permit or other authority over, or in relation to a special wildlife reserve. The provision outlines who may grant particular authorities over special wildlife reserves, and the consent required to do so. This ensures that interests in special wildlife reserves are only granted with the knowledge and consent of the Minister or chief executive responsible for administering this class of protected area. This provision is consistent with section 34 of the Act, which applies to national parks.

For example,

- 43F(1)(a) would cover the grant of an authority under the Nature Conservation Act (such as a permit for the take, use, keep or interfere with natural resources for scientific purposes);
- 43F(1)(b)(i) makes it clear that this provision does not limit the power of the Governor in Council in the making of other laws;
- 43F(1)(b)(ii) would cover the grant of a lease or sublease under the *Land Act 1994* by the Minister (Lands); and
- 43F(1)(c) would cover a landholder on freehold land who grants a lease or sublease over the land.

Any lease, agreement, licence, permit or other authority issued under this section must be consistent with the management principles and conservation agreement for the area. Leases granted must be lodged for registration as soon as practicable.

The new section 43G (Service facilities over land in special wildlife reserves) outlines the considerations of which the chief executive must be satisfied in order to authorise the use of land in a special wildlife reserve for a service facility, as defined in the Dictionary.

These considerations differ depending on whether the facility is new or an existing service facility. This section applies despite sections 15 (Management of protected areas) and 43F(2). When considering the granting of an interest for a service facility, the chief executive must be satisfied that the management principles and conservation agreement will be observed to the greatest possible extent, that the use will be in the public interest and will be ecologically sustainable, and that there is no reasonable practicable alternative to the use. The provisions relating to the granting of an interest are analogous to those that exist for national parks and acknowledge that certain uses should be allowed on any class of protected area, for the overall public benefit.

The specific use being authorised, other than for an existing service facility, must appear in regulation (for example, Schedule 3 (Permitted uses in relevant areas) of the *Nature Conservation (Protected Areas Management) Regulation 2006* prescribes current permitted uses (service facilities) on protected areas).

The new **section 43H (Previous use authorities in special wildlife reserve)** allows the chief executive to grant a limited term authority to allow for a use that is not otherwise captured under section 43F to continue through the declaration of a special wildlife reserve. The use of this provision is solely at the discretion of the chief executive, and may be used, for instance, to allow the declaration of a special wildlife reserve to occur where the pre-existence of a particular use may otherwise prevent the declaration. For example, it may be seen as desirable to pursue the early declaration of a reserve to protect a particularly vulnerable species or ecosystem, but a current interest is held over the land for a period of time, and the person is not willing to relinquish their interest prematurely.

The new **section 43I (Amalgamation of special wildlife reserves)** allows the Governor in Council to amalgamate and rename special wildlife reserves, by regulation, without the requirement to go through the more onerous process required for simple revocations. This simpler process is seen as acceptable, as no net effect is had on the values or protection of the values of the special wildlife reserves involved. Amalgamation is essentially an administrative process, for which the passing of a resolution by the Legislative Assembly would be excessive. Standard administrative processes will apply in relation to amendment of conservation agreements, management programs and recording actions with the registrar.

The new **section 43J (Revocation of special wildlife reserves)** details the processes that must be followed to revoke through regulation, a special wildlife reserve, in whole or in part. The revocation of a special wildlife reserve area can generally only occur if the Legislative Assembly has passed a resolution requesting the Governor in Council to make the revocation. This process, analogous to that for protected areas on State land (including national parks), serves to ensure that the highest level of scrutiny is applied to a proposal for revocation. This process is intended to provide the highest possible level of security to a special wildlife reserve declaration, in line with the level of security afforded to national parks.

This section also allows for revocation to occur without the requirement for the Legislative Assembly process outlined in 43J(2), in certain circumstances where the revocation is associated with a change that the Minister is satisfied does not adversely affect the conservation of nature. These circumstances include: minor changes to boundaries; changes where the revocation of a part of the special wildlife reserve is associated with the addition of a larger area to the reserve; and where the reserve is to be dedicated as a national park (scientific) or a national park.

This section confirms the application of administrative processes associated with an amendment or complete revocation of the special wildlife reserve in terms of the conservation agreement and management program in place for the area.

The new **section 43K (Conservation agreements for special wildlife reserves binding)** states that a conservation agreement is binding on the landholder of land in the special wildlife reserve, the successors in title to the land and any other person with an interest in the land that has consented to the conservation agreement. While it may be unusual to bind a person who is not a signatory to an agreement, their written consent is required under section 43B(2).

This section also clarifies that the binding nature of the agreement applies even if land that is subject to a tenure under the *Land Act 1994* (e.g. leasehold land) undergoes a tenure dealing such as a tenure conversion or lease renewal. This section serves to ensure that a special wildlife reserve's continuity is not inadvertently threatened through the loss of an in-force conservation agreement due to change of landholder, or tenure processes such as lease renewal or freeholding conversion of leasehold land.

The intention of this provision is for the term "successors in title" to be taken broadly, to ensure that any future title holder of the land is bound and the declaration

continues to burden the land, irrespective of whether the same title or an amended title has been issued for the land.

The new **section 43L (Consent for transfer or surrender of land or expiry of lease)** states that the landholder of a special wildlife reserve must obtain the written consent of the chief executive before seeking approval or giving an advice regarding a number of matters listed. The relevant circumstances involve a landholder wishing to surrender all or part of the underlying lease or freehold title of the land, to allow the underlying lease to expire or to transfer the underlying lease.

The chief executive's consideration of a lease surrender or expiry is considered necessary to allow the chief executive to consider options that will best provide for the on-going existence and appropriate management of the reserve. Under the *Land Act 1994,* upon expiry or absolute surrender of a lease (other than a State lease) or freehold lot to the State, the land becomes unallocated State land and all interests in the land are extinguished upon registration of the surrender. This will effectively end the declaration of the reserve. It would be preferable for the chief executive to be able to consider other options prior to a surrender that would allow for the continuance of the special wildlife reserve, as intended upon its declaration.

The chief executive's consideration of an application to transfer leasehold land over which a special wildlife reserve is declared will provide an opportunity to prevent the transfer of a lease to a landholder that the chief executive considers to be incapable of providing, or unlikely to provide, management of the reserve in accordance with the reserve's management principles, conservation agreement and management program. A landholder's capacity and suitability to manage a special wildlife reserve will be an important aspect of the Minister's consideration of whether to propose a special wildlife reserve in the first instance, and this provision assists in preventing that consideration being undermined through a simple transfer of lease.

Transfer of a freehold lot has not been captured in this provision, as to do so would be an unusually restrictive provision in relation to freehold land dealings.

13 Omission of s 50A (Chief executive to lodge with or notify particular matters to chief executive (lands))

Clause 13 removed section 50A as relevant provisions for the lodgement of these matters are now located in section 134. The new section 134 provides clarity and simplifies the administrative process of titling and record keeping for these matters in the one location.

14 Replacement of s 51 (Conservation agreements and conservation covenants for nature refuges binding)

Clause 14 replaces section 51 and states that a conservation agreement is binding on the landholder of land in the nature refuge, the successors in title to the land and any other person with an interest in the nature refuge to the extent stated in the conservation agreement. While it may be unusual to bind a person who is not a signatory to an agreement, the written consent of persons materially affected is required under section 45(2) and any future interest holder would be entering into

such an interest with the full knowledge of the obligations imposed by the conservation agreement and the nature refuge declaration.

This section also clarifies that the binding nature of the agreement applies even if land that is subject to a tenure under the *Land Act 1994* (e.g. leasehold land) undergoes a tenure dealing such as a tenure conversion or lease renewal. This section serves to ensure that a nature refuge's continuity is not inadvertently threatened through the loss of an in-force conservation agreement due to change of landholder, or tenure processes such as lease renewal or freeholding conversion of leasehold land.

15 Omission of s 52 (Liability of State)

Clause 15 omits this section as provisions about the liability of the State have been moved to the new section 68A, where they have been expanded in scope to include special wildlife reserves.

16 Amendment of s 62 (Restriction on taking etc. of cultural and natural resources of protected areas)

Clause 16 adds a management program for a special wildlife reserve to the list of authorising instruments which can allow the taking, using, or keeping of, or the interference with, a cultural or natural resource on a protected area. This clause also corrects an existing reference to a conservation covenant, which has previously been referred to simply as a 'covenant'.

Clause 16 also amends section 62 of the Nature Conservation Act to insert reference to authorities granted under the new sections 43F and 43H, and to insert reference to authorities granted under the existing sections 42AD, 42AN, 42AE, 42AO, 42AEA, 42AOA and 42AP. This ensures that an activity carried out under an authority granted under any of those sections does not constitute an offence against section 62 of the Act.

The insertion of reference to the new sections 43F and 43H takes necessary account of new authorities that may be granted under those sections. The insertion of reference to the existing sections 42AD, 42AN, 42AE, 42AO, 42AEA, 42AOA and 42AP rectifies a previous oversight – i.e. section 62(1)(c)(i) of the Nature Conservation Act should have been amended to include reference to sections 42AD, 42AN, 42AE, 42AO, 42AEA, 42AOA and 42AP when those sections were added to the Act.

The amended section 62 will ensure that a person acting in accordance with an authority granted under any of the referenced sections is exempted from an offence in respect of that authorised action.

17 Amendment of s 65 (Effect of change in class of protected area)

Clause 17 amends existing provisions about the effect of a change in class of a protected area to be subject to new provisions relating to the amalgamation and

revocation of special wildlife reserves. The general effect of this section is to state that the change of class leads to the replacement of the earlier declaration or dedication.

18 Insertion of new s 68A (Liability of State)
Clause 18 replaces the omitted section 52, which has been moved from the division specific to nature refuges and coordinated conservation areas and into the division that applies to protected areas generally. This allows for the broadening of the scope of the provision to include special wildlife reserves.

19 Amendment of s 69 (Preservation of landholders' interests)
Clause 19 amends section 69 to ensure it is clear that while the interests of a landholder of land forming part of a protected area are not affected by the declaration of a protected area, this does not necessarily apply to a landholder who is bound by a conservation agreement or the terms of a covenant in relation to the land. The section also notes that the interests of a landholder of a special wildlife reserve remain subject to section 43L (Consent for transfer or surrender of land or expiry of lease).

20 Amendment of s 70AA (Regulations may define extent of area)
Clause 20 adds the provision relating to declaration of special wildlife reserves to the list of provisions relating to specifying a depth below or height above the surface of land to which a regulation may apply, consistent with application on other protected areas.

21 Amendment of pt 7, hdg (Management statements, management plans and conservation plans)
Clause 21 adds management programs to the instruments dealt with in this part.

22 Omission of pt 7, div 1
Clause 22 removes Division 1 of Part 7, as the definition of landholder provided in this division no longer applies to the entire part as amended by this Bill.

23 Amendment of s114 (Application of div 4)
Clause 23 amends the heading of section 114 to expand the word "division".

24 Amendment of s115A (Notice of draft plan)
Clause 24 amends section 115A to include the broad definition of landholder as removed from part 7, division 1 to ensure that those with an interest in land retain the opportunity to be invited to make written submissions about a draft management plan.

25 Insertion of new pt 7, div 6A (Preparing and approving management programs)
Clause 25 inserts a new division that provides for the preparation and approval of management programs for special wildlife reserves.

The new **section 120EA (Preparation of management program)** states that a landholder who intends to enter into a conservation agreement for a special wildlife

reserve must prepare and give the Minister a draft management program for approval.

The new **section 120EB (Content of management program)** outlines the basic components of a management program that must be included. This section also states that a management program may detail management zones within a special wildlife reserve, and authorise or restrict the taking, using, keeping of, or interference with, a cultural or natural resource on the reserve. Management zones can be used to specify differing management regimes (including activities, authorities and restrictions) on specific areas of a reserve.

The new **section 120EC (Approval of management program)** outlines matters of which the Minister must be satisfied before approving a management program for a proposed reserve. These include consistency with the management principles and conservation agreement for the reserve, the appropriateness of management outcomes and actions to achieve them, and the ecological sustainability of any authorisations or restrictions in relation to cultural or natural resources on the proposed reserve.

The new **section 120ED (When management program has effect)** makes it clear that a management program, and hence any authorisation or restriction provision contained within it, does not take effect until the declaration of the reserve. Prior to the declaration of a protected area, authorisations in relation to natural values would be required to be obtained through other means, such as protected wildlife authorities. If a nature refuge is transitioned to a special wildlife reserve, the management program will not be in effect in relation to the land until the special wildlife reserve is declared.

The new **section 120EE (Implementation of management program)** ensures that the full range of management instruments associated with the declaration of a special wildlife reserve (including the management program) are employed as agreed between the State and the landholder.

The new **section 120EF (Amendment of management program)** allows for a landholder to submit an amended management program for approval by the chief executive, and that the amendment management program takes effect when it is approved. The section clarifies that section 120EC (Approval of management program) applies as if a reference to the Minister were a reference to the chief executive.

26 Renumbering of pt 7, divs 2–6A

Clause 26 renumbers Part 7 Divisions 2 to 6A as Part 7, divisions 1 to 6.

27 Amendment of pt 7, div 7, hdg (Reviewing management statements and management plans)

Clause 27 adds management programs to the instruments that are relevant to this division of the Act.

28 Insertion of new s 120GA (Review of management program)

Clause 28 outlines the provisions for reviewing management programs. In addition to any amendments that may occur from time to time, a review of the management program must be undertaken by the chief executive and the landholder no later than 5 years after the program takes effect, and each 5 years thereof. This serves to provide for regular consideration of the appropriateness and currency of the management program over time. Upon the completion of the review the chief executive and landholder may agree to either amend the management program, or leave the management program unchanged.

29 Replacement of s 134 (Records to be maintained by registrar)
Clause 29 replaces section 134 and replaces it with an updated section 134 (Records to be kept by registrar) also covering the relevant requirements of the removed section 50A. This section outlines the manner in which records are to be kept or removed by the registrar for the listed instruments in relation to land, and requires the registrar to record the information provided. This allows the existence of the instruments applying to the land to be recorded visibly on the title for the land, should a person, such as a prospective purchaser, undertake a search of the land title.

30 Amendment of s 137 (Licences to be consistent with management principles, and management intent or plan)
Clause 30 amends this section to include a conservation agreement as a management instrument for which licences, permits or authorities in relation to natural or cultural resources on a protected area must be consistent. The heading is also updated to include conservation agreement.

31 Amendment of s 141 (Delegation by chief executive)
Clause 31 amends section 141(3) of the Nature Conservation Act 1992 to insert reference to the new sections 43F and 43H, and to insert reference to the existing section 42AN. This provides that the power of the chief executive to grant these authorities under sections 42AN, 43F and 43H cannot be delegated to another person.

The insertion of reference to the new sections 43F and 43H takes necessary account of new authorities that may be granted under these sections. The reference to the existing section 42AN rectifies a previous oversight – i.e. section 141 of the Nature Conservation Act 1992 should have been amended to include reference to section 42AN when section 42AN was added to the Act.

The amended section 141 will ensure consistency of non-delegable provisions relating to the grant of specific authorities for national parks, national parks (Cape York Peninsula Aboriginal land), indigenous joint management areas and special wildlife reserves. These authorities can cover activities with significant potential impact, and it is appropriate that the power to grant them is retained by the chief executive, rather than being able to be delegated to lower levels.

32 Amendment of s 154 (Other powers of conservation officers)
Clause 32 enables a conservation officer to enter land, in the manner prescribed, for the purposes of inspecting, researching or reporting on protected areas, or for the

purpose of investigating or monitoring compliance with a conservation agreement. Previously it was clear that a conservation officer may enter land for a range of purposes on land before it becomes a protected area, however the manner in which the conservation officer could enter the land to determine that the land was being adequately managed after it becomes a protected area was not specified.

33 Amendment of s 174 (Application of Statutory Instruments Act)
Clause 33 adds the provision relating to the declaration of special wildlife reserves to this section. The effect of this provision is that, following the decision of the Legislative Assembly to allow the revocation of a special wildlife reserve (or part thereof) the resultant regulation does not need to be tabled in the Legislative Assembly for a second time. This is consistent with the process for revocation of state-owned protected areas, forest reserves and state forests.

However, it should be noted that where a partial revocation occurs as part of an overall beneficial process (see 43J(3)), the regulation giving effect to this declaration will not be tabled in the Legislative Assembly, as revocations under the circumstances outlined will be either administrative in nature, or involve the concurrent declaration of a larger new area in the reserve.

34 Insertion of new s 174C (No fee for instrument, information or notice)
Clause 34 exempts the chief executive from the usual fees payable for the lodgement of documents or giving of notice to the registrar or chief executive (lands) where required by this Act.

35 Amendment of s 175 (Regulation-making power)
Clause 35 inserts a missing comma in the regulation making power for removal and disposal of particular items. Subsection 2(h) should refer to removal and disposal of seized vehicles, boats, aircraft, property and appliances.

36 Amendment of schedule (Dictionary)
Clause 36 makes amendments to the Dictionary as follows:

replaces the definition for *conservation agreement* to acknowledge conservation agreements for special wildlife reserves;
adds a definition for *ecotourism* to the Dictionary, which was removed from the body of the Act (see *Clause 6*);
adds a definition for *management program*, *proposed reserve area*, and *special wildlife reserve*; and
amends the definition for *existing service facility* to acknowledge special wildlife reserves.

Part 3 Amendment of *Biodiscovery Act 2004*

37 Act amended
Clause 37 states that this part amends the *Biodiscovery Act 2004*.

38 Amendment of s 24 (Collection authority concerning land dedicated as new national park or declared as marine park)

Clause 38 adds special wildlife reserves to the types of land to which this section applies and replaces section 24(1) to apply special wildlife reserves and their declaration to this section, which allows an existing collection authority under this Act to continue for its unexpired term on a protected area despite any inconsistency with the management principles for the protected area.

Part 4 Amendment of *Environmental Offsets Act 2014*

39 Act amended

Clause 39 states that this part amends the *Environmental Offsets Act 2014*.

40 Amendment of s 7 (What is an *offset condition* and an *environmental offset*)

Clause 40 adds special wildlife reserve to the exclusion of particular private protected areas to which section 7(3) applies. Similar to a nature refuge, this means that an environmental offset for significant residual impacts on a special wildlife reserve cannot provide a social, cultural, economic or environmental benefit for a different category of protected area.

41 Amendment of s 18 (Electing how to deliver environmental offset)

Clause 41 amends subsection 18(1) of the Act to clarify when section 18 applies. An entity may submit a notice of election before or after an offset condition has been imposed on an authority if the condition relates to the significant residual impact of a prescribed activity on a prescribed environmental matter.

Subsection 18(2) is amended to confirm that the notice of election is to be given to the administering agency for the offset condition.

42 Insertion of new pt 6, div 7

Clause 42 inserts a new division to include the new section 25AA into the Act. The new section 25AA states that the chief executive under the Planning Act (‘planning chief executive’) may nominate a person to perform the planning chief’s executive’s functions, where that chief executive is the assessment manager or referral agency for the application and has not yet nominated a person as an enforcement authority for the application.

43 Amendment of s 29 (What is a *legally secured offset area*)

Clause 43 adds reference to the new section 43D *Declaration of special wildlife reserve* to the list of what a legally secured area includes. This means that a special wildlife reserve can be used to secure an offset under the Environmental Offsets Act.

44 Amendment of s 86 (Payment of amounts from offset account)

Clause 44 adds special wildlife reserve to the exclusions listed in the provision relating to the department withholding payment of funds from the offset account for protected areas.

45 Amendment of sch 2 (Dictionary)
Clause 45 adds the term special wildlife reserve to the Dictionary.

This clause also amends the definition of an administering agency to clarify the various entities that may be an administering agency under the Planning Act or another Act. It also provides a related definition for planning chief executive. These are all clarification amendments.

Part 5 Amendment of the *Environmental Protection Act 1994*

46 Act amended
Clause 46 states that this part amends the *Environmental Protection Act 1994*.

47 Amendment of s19 (Environmentally relevant activity may be prescribed)
Clause 47 provides for additional circumstances in which an environmentally relevant activity may be prescribed in a regulation. An activity carried out partly within the state of Queensland, and partly within Commonwealth waters within the Great Barrier Reef Marine Park, may be prescribed to be an environmentally relevant activity if the matters stated in subsections (1)(a) and (b) are satisfied or if the activity will or may adversely affect an environmental value of the marine environment. The provision is intended to give the Act limited extra-territorial effect.

Part 6 Amendment of *Forestry Act 1959*

48 Act amended
Clause 48 states that this part amends the *Forestry Act 1959*.

49 Amendment of sch 3 (Dictionary)
Clause 49 adds a special wildlife reserve to the types of area that are defined as a *protected area* under this Act. The effect of this is that the State will be prohibited from getting or selling any forest products or quarry material on a special wildlife reserve (see sections 46 and 48 of the Forestry Act).

Part 7 Amendment of *Fossicking Act 1994*

50 Act amended
Clause 50 states that this part amends the *Fossicking Act 1994.*

51 Amendment of s 3 (Definitions)
Clause 51 adds a special wildlife reserve to the areas defines as protected areas under the Act. The effect of this amendment is that special wildlife reserves are excluded from the application of the Fossicking Act.

Part 8 Amendment of *Land Act 1994*

52 Act amended
Clause 52 states that this part amends the *Land Act 1994*.

53 Amendment of s199 (Duty of care condition)
Clause 53 inserts a section to clarify that where a special wildlife reserve or nature refuge is declared over a lease, the duty of care provisions relating to maintenance of pastures and prevention of encroachment of woody vegetation need not apply.

54 Amendment of s199A (Land may be used only for tenure's purpose)
Clause 54 amends section 199A to state that despite subsections (2) and (3), leased land in a special wildlife reserve or nature refuge may be used in a way permitted by the Nature Conservation Act. This amendment serves to clarify that, when a special wildlife reserve or nature refuge is declared over a lease, activities that the landholder undertakes, or more commonly, refrains from undertaking, to give effect to the protected area declaration, are not constrained by the purpose of the lease. An example of this would be the permanent or long-term destocking of a pastoral lease to protect the values for which the protected area had been declared. This does not provide the landholder any additional rights or interests beyond that held under the lease.

55 Amendment of s279A (Registration of documents lodged or matters notified under particular Acts)
Clause 55 ensures that conservation agreements that are recorded in the land registry are treated as a registered interest, or a relevant registered interest in the land for a range of provisions within the Land Act. These provisions do not extend the life of an agreement that was intended to end at a specific time, but rather simplify the process by which agreements continue through various tenure processes during the agreed term (including a 'perpetual' term). This is consistent with the clarification made through the amended sections 43K and 51 of the Nature Conservation Act, and will prevent the loss of the protected area as a result of a conservation agreement becoming invalid simply because the land description within the agreement references a lease in place at the time of the agreement that is no longer current.

The specific provisions include:

Section 162(5) – when a new lease is issued over the land, the land will continue to be subject to the existing conservation agreement (i.e. the agreement, and protected area, survives the change of lease) and the conservation agreement will continue to be recorded on the lease.

Section 164F(2)(d) – when a lease is extended over the land through the rolling term lease provisions, the land will continue to be subject to the existing conservation agreement (i.e. the agreement, and protected area, survives the extension of lease) and the conservation agreement will continue to be recorded on the lease.

Section 172(5) – when a new tenure is issued over the land (a 'tenure conversion'), the land will continue to be subject to the existing conservation agreement (i.e. the

agreement, and protected area) survives the tenure conversion, and the conservation agreement will continue to be recorded on the land title.

Section 176(2)(c) – While subdivision is usually prohibited under the terms of a conservation agreement, nothing within the Land Act specifically prevents this happening, should the landholder apply. This amendment requires that an application of a lessee to subdivide a lease that is subject to a conservation agreement must be accompanied by the written consent of the Minister for the Nature Conservation Act.

Section 176G(2) – should a lease subject to a conservation agreement be subdivided, the land will continue to be subject to the conservation agreement (i.e. the agreement, and protected area, survives the subdivision of the lease), and the conservation agreement will continue to be recorded on the new lease/s.

Section 176K(3)(c) - While reconfiguration of a lot is usually prohibited under the terms of a conservation agreement, nothing within the Land Act specifically prevents this happening on a lease, should the landholder apply. This amendment requires that an application of a lessee to amalgamate a lease subject to an existing conservation agreement must be accompanied by the written consent of the Minister for the Nature Conservation Act.

Section 176S(2) –land in an amalgamated lease remains subject to a conservation agreement in the same way as the existing lease/s prior to amalgamation (i.e. the agreement, and protected area, survives the amalgamation of the lease/s), and the conservation agreement will continue to be recorded on the new lease.

Section 325(1)(b) –land in a lease remains subject to a conservation agreement should the lease be transferred to a new party (i.e. the agreement, and protected area, survives the change of lessee), and that the conservation agreement will continue to be recorded on the lease.

Section 240K(1) – notice is provided when land in a lease that is subject to a conservation agreement is to be sold by the chief executive (Lands).

Section 240L(9) – where the chief executive (lands) enters into possession of a lease subject to a conservation agreement that is to be sold, the chief executive (Lands) is not liable for the payment of any amount to the chief executive (NCA).

Section 327C(2) – notice is provided to the chief executive (NCA) when a lessee of land that is subject to a conservation agreement intends to surrender all or part of the lease.

360D(2) – ensures that should an applicant of land subject to a conservation agreement wish to apply for an amendment to their lease, the chief executive (NCA)is notified.

56 Amendment of s 290J (Requirements for registration of plan of subdivision

Clause 56 amends this section to require that a plan of subdivision affecting land that is subject to a conservation agreement can only be registered if the written consent of the chief executive responsible for administering the Nature Conservation Act is given. This will ensure that the chief executive is aware of any proposal to subdivide a nature refuge or special wildlife reserve, and can consider whether it is appropriate in regard to relevant matters such as the terms of the conservation agreement.

57 Amendment of sch 6 (Dictionary)
Clause 57 adds the definition of a special wildlife reserve to the Dictionary and adds a *special wildlife reserve* to the list of things that are defined as a *nature conservation area* under the Act.

The clause also amends the definition of *appropriate register* to replace the undefined term 'specified protected areas' with reference to protected area, critical habitat and areas of major interest under the Nature Conservation Act. These amendments are designed to provide clarity about the matters which should be entered into registers under this Act (refer also to clause 25 above, which amends section 134 of the Nature Conservation Act in relation to recording matters by the registrar).

Part 9 Amendment of *Land Title Act 1994*

58 Act amended
Clause 58 states that this part amends the *Land Title Act 1994*.

59 Amendment of s 50 (Requirements for registration of plan of subdivision)
Clause 59 amends this section to require that a plan of subdivision affecting land that is subject to a conservation agreement can only be registered if the written consent of the chief executive responsible for administering the Nature Conservation Act is given. This will ensure that the chief executive is aware of any proposal to subdivide a nature refuge or special wildlife reserve, and can consider whether it is appropriate in regard to relevant matters such as the terms of the conservation agreement.

Part 10 Amendment of *Mineral Resources Act 1989*

60 Act amended
Clause 60 states that this part amends the *Mineral Resources Act 1989*.

61 Amendment of sch 2 (Dictionary)
Clause 61 adds a special wildlife reserve into the types of area that are defined as a *protected area* under this Act. The effect of this is that special wildlife reserves are not considered to be *land* as defined under this Act (other than with respect to sections 8, 9 and 11) and therefore mining interests may not be granted over a special wildlife reserve.

Part 11 Amendment of *Vegetation Management Act 1999*

62 Act amended

Clause 62 states that this part amends the *Vegetation Management Act 1999*.

63 Amendment of s 7 (Application of Act)

Clause 63 amends this section to include special wildlife reserves in the list of protected areas to which this Act does not apply for the clearing of vegetation. Vegetation clearing on special wildlife reserves will be restricted under the Nature Conservation Act, and any necessary clearing will be authorised through the conservation agreement and management program for a special wildlife reserve or through the granting of permits to take, use or keep, or interfere with, natural resources under Nature Conservation Act.