



Queensland

Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Bill 2010



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2010

A Bill

for

An Act to amend the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, the *Aboriginal Land Act 1991*, the *Liquor Act 1992*, the *Local Government (Aboriginal Lands) Act 1978*, the *Local Government Act 2009*, the *Nature Conservation Act 1992*, the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Residential Tenancies and Rooming Accommodation Act 2008*, the *Right to Information Act 2009* and the *Torres Strait Islander Land Act 1991* for particular purposes, and to make minor and consequential amendments to the *Auditor-General Act 2009*, the *Environmental Protection Act 1994*, the *Greenhouse Gas Storage Act 2009*, the *Information Privacy Act 2009*, the *Mineral Resources Act 1989*, the *Police Powers and Responsibilities Act 2000*, the *Survey and Mapping Infrastructure Act 2003* and the *Vegetation Management Act 1999* for purposes related to those particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2010*. 4
5
6

Clause 2 Commencement 7

This Act commences on a day to be fixed by proclamation. 8

Part 2 Amendment of Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984 9
10
11
12

Clause 3 Act amended 13

This part amends the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*. 14
15

Clause 4 Amendment of s 4 (Definitions) 16

Section 4— 17
insert— 18
‘indigenous local government, for part 3, division 1, see section 8A.’. 19
20

Clause 5	Replacement of s 8A (Definition for div 1)	1
	Section 8A—	2
	<i>omit, insert—</i>	3
'8A	Definitions for div 1	4
	'In this division—	5
	<i>indigenous local government</i> means any of the following local governments—	6 7
	(a) the Aurukun Shire Council;	8
	(b) the Mornington Shire Council;	9
	(c) a community government;	10
	(d) an indigenous regional council.	11
	<i>indigenous local government area</i> means—	12
	(a) the local government area for—	13
	(i) Aurukun Shire Council; or	14
	(ii) Mornington Shire Council; or	15
	(b) a community government area; or	16
	(c) an IRC area, including an IRC division area.'	17
Clause 6	Amendment of s 9 (Jurisdiction and powers of police)	18
(1)	Section 9, 'a community government or IRC area'—	19
	<i>omit, insert—</i>	20
	'an indigenous local government area'.	21
(2)	Section 9(3), 'community government or indigenous regional council established'—	22 23
	<i>omit, insert—</i>	24
	'indigenous local government'.	25

[s 7]

Clause 7	Amendment of s 10 (Entry upon community government or IRC areas etc.)	1 2
(1)	Section 10, heading ‘community government or IRC areas’— <i>omit, insert—</i> ‘indigenous local government areas’.	3 4 5
(2)	Section 10, ‘a community government area or IRC area’— <i>omit, insert—</i> ‘an indigenous local government area’.	6 7 8
(3)	Section 10(b), ‘a community government or indigenous regional council’— <i>omit, insert—</i> ‘an indigenous local government’.	9 10 11 12
Clause 8	Amendment of s 11 (Application to community government or IRC areas of laws relating to public places)	13 14 15
(1)	Section 11, heading ‘community government or IRC areas’— <i>omit, insert—</i> ‘indigenous local government areas’.	16 17 18
(2)	Section 11, ‘community government or IRC areas’— <i>omit, insert—</i> ‘indigenous local government areas’.	19 20 21
(3)	Section 11(1)(a) and (b), ‘a community government or IRC area’— <i>omit, insert—</i> ‘an indigenous local government area’.	22 23 24 25
Clause 9	Amendment of s 12 (Community police officers)	26
(1)	Section 12(1), ‘a community government or IRC area’—	27

	<i>omit, insert—</i>	1
	‘an indigenous local government area’.	2
(2)	Section 12(2), ‘A’—	3
	<i>omit, insert—</i>	4
	‘An’.	5
(3)	Section 12(2) and (4), ‘community government or indigenous regional council’—	6 7
	<i>omit, insert—</i>	8
	‘indigenous local government’.	9
Clause 10	Amendment of s 13 (Discharge of community police officers’ functions etc.)	10 11
(1)	Section 13(1), (2) and (4), ‘a community government area or IRC area’—	12 13
	<i>omit, insert—</i>	14
	‘an indigenous local government area’.	15
(2)	Section 13(1), ‘local law of the community government or indigenous regional council established’—	16 17
	<i>omit, insert—</i>	18
	‘a local law of the indigenous local government’.	19
Clause 11	Amendment of s 14 (Other functions of community police officers)	20 21
(1)	Section 14, ‘A community government or indigenous regional council’—	22 23
	<i>omit, insert—</i>	24
	‘An indigenous local government’.	25
(2)	Section 14, ‘community government or IRC area’—	26

[s 12]

omit, insert— 1
‘indigenous local government area’. 2

Part 3 **Amendment of Aboriginal Land Act 1991** 3
4

Clause 12 Act amended 5
This part amends the *Aboriginal Land Act 1991*. 6
Note— 7
See also the schedule. 8

Clause 13 Amendment of s 10 (Meaning of Aboriginal land) 9
(1) Section 10(1), from ‘land is—’— 10
omit, insert— 11
‘land is transferred land or granted land.’. 12
(2) Section 10(2)— 13
omit. 14
(3) Section 10(3)— 15
renumber as section 10(2). 16

Clause 14 Amendment of s 13 (DOGIT land) 17
(1) Section 13(1), ‘is—’— 18
omit, insert— 19
‘was—’. 20
(2) Section 13(1)(a), before ‘granted’— 21
insert— 22
‘prescribed DOGIT land or land’. 23

-
- (3) Section 13(1)(b)(i) to (iv), ‘is’— 1
omit. 2
- (4) Section 13(1)(b)(iii), ‘*Aborigines and Torres Strait Islanders (Land Holding) Act 1985*’— 3
omit, insert— 4
‘Land Holding Act’. 5 6
- (5) Section 13(1)(b)(v) and (vi)— 7
renumber as section 13(1)(b)(vi) and (vii). 8
- (6) Section 13(1)(b), before ‘other than’— 9
insert— 10
 ‘(v) the subject of an application under the Land 11
 Holding Act, section 5, that had been approved by 12
 the trustee council, or approved on appeal by the 13
 appeal tribunal, under that Act, but for which a 14
 lease under that Act has not been granted;’. 15
- (7) Section 13(1A) and (2)— 16
renumber as section 13(2) and (4). 17
- (8) Section 13— 18
insert— 19
- ‘(3) Also, DOGIT land includes land within the external 20
boundaries of land mentioned in subsection (1)(a) if — 21
- (a) the land was the subject of an application under the 22
 Land Holding Act, section 5, that was approved by the 23
 trustee council, or approved on appeal by the appeal 24
 tribunal, under that Act after the enactment day; and 25
- (b) a lease under that Act has not been granted for the land.’. 26

Clause 15 Amendment of s 14 (Aboriginal reserve land) 27

- (1) Section 14(b), from ‘and subject’ to ‘1985;’— 28
omit, insert— 29

[s 16]

- ‘and— 1
- (i) subject to a lease granted under the Land Holding 2
Act; or 3
- (ii) the subject of an application under the Land 4
Holding Act, section 5, that had been approved by 5
the trustee council, or approved on appeal by the 6
appeal tribunal, under that Act, but for which a 7
lease under that Act has not been granted;’. 8
- (2) Section 14— 9
- insert—* 10
- ‘(2) Also, Aboriginal reserve land includes land within the 11
external boundaries of land mentioned in subsection (1)(a) 12
if— 13
- (a) the land was the subject of an application under the 14
Land Holding Act, section 5, that was approved by the 15
trustee council, or approved on appeal by the appeal 16
tribunal, under that Act after the enactment day; and 17
- (b) a lease under that Act has not been granted for the land.’. 18

- Clause 16 Amendment of s 15 (Aurukun Shire lease land) 19**
- (1) Section 15(1)(a)— 20
- insert—* 21
- ‘*Note—* 22
- For the Act mentioned in paragraph (a), see the *Aurukun and 23
Mornington Shire Leases Act 1978*.’. 24
- (2) Section 15— 25
- insert—* 26
- ‘(3) In this section— 27
- road*** includes a road mentioned in the *Aurukun and 28
Mornington Shire Leases Act 1978*, section 4A(1).’. 29

Clause 17	Amendment of s 16 (Mornington Shire lease land)	1
	(1) Section 16(1)(a)—	2
	<i>insert—</i>	3
	‘ <i>Note—</i>	4
	For the Act mentioned in paragraph (a), see the <i>Aurukun and Mornington Shire Leases Act 1978</i> .’.	5
		6
	(2) Section 16—	7
	<i>insert—</i>	8
	‘(3) In this section—	9
	<i>road</i> includes a road mentioned in the <i>Aurukun and Mornington Shire Leases Act 1978</i> , section 4A(1).’.	10
		11
Clause 18	Amendment of s 16B (Particular land may be declared to be not transferable land)	12
	(1) Section 16B(1), ‘under this division’—	13
	<i>omit.</i>	14
		15
	(2) Section 16B(1)(b) and (2)(a), ‘by the Aboriginal people on the land’—	16
	<i>omit.</i>	17
		18
	(3) Section 16B(3), ‘under this division’—	19
	<i>omit, insert—</i>	20
	‘to the Land Court’.	21
Clause 19	Amendment of s 16C (Notice of intention to make declaration)	22
	Section 16C(1)(b), ‘within 10 business days’—	23
	<i>omit, insert—</i>	24
	‘as soon as practicable’.	25
		26

[s 20]

Clause 20	Amendment of s 16D (Minister to consider representations and give notice of decision)	1 2
(1)	Section 16D(2)— <i>renumber</i> as section 16D(3).	3 4
(2)	Section 16D— <i>insert</i> —	5 6
‘(2)	The Minister may, after considering the representations, decide to make the declaration for all or a part of the relevant land described in the notice under section 16C.’.	7 8 9
(3)	Section 16D(3), as renumbered under this section, from ‘must’— <i>omit, insert</i> — ‘must—	10 11 12 13
(a)	include a description of the relevant land to be declared not transferable under this division; and	14 15
(b)	state all of the following—	16
(i)	the provision under which the declaration is to be made;	17 18
(ii)	the reasons for the decision;	19
(iii)	if the Minister is to make the declaration under section 16B(1)(d)—that a person who made representations about the proposed declaration may appeal against the decision to the Land Court within 28 days after receiving the notice, and how the person may appeal.’.	20 21 22 23 24 25
Clause 21	Omission of ss 16E and 16F	26
	Sections 16E and 16F—	27
	<i>omit.</i>	28

Clause 22	Amendment of s 16I (Requirements about plans of subdivision for declarations under s 16B)	1 2
	Section 16I, heading, ‘under s 16B’—	3
	<i>omit.</i>	4
Clause 23	Amendment of s 17 (Meaning of claimable and granted land)	5 6
	Section 17(2), from ‘land is—’—	7
	<i>omit, insert—</i>	8
	‘land is claimable land that has been claimed by, and granted under this Act to, a group of Aboriginal people.’.	9 10
Clause 24	Amendment of s 18 (Lands that are claimable lands)	11
	(1) Section 18, heading—	12
	<i>omit, insert—</i>	13
‘18	Land that is claimable land’.	14
	(2) Section 18(1)(b)—	15
	<i>omit, insert—</i>	16
	‘(b) Aboriginal land that—	17
	(i) is transferred land; and	18
	(ii) became transferred land before 22 December 2006.’.	19 20
Clause 25	Replacement of s 19 (Lands that are available State land—general)	21 22
	Section 19—	23
	<i>omit, insert—</i>	24
‘19	Land that is available State land—general	25
	‘(1) Land is available State land if it is—	26

[s 25]

- (a) land, other than excluded land, in which no person other than the State has an interest; or 1
2
- (b) land, other than excluded land, that is subject to an interest granted by the State, if an available State land agreement is in force for the land; or 3
4
5
- (c) land inside the Torres Strait area that is land— 6
- (i) in which no person other than the State has an interest; and 7
8
- (ii) declared under a regulation to be available State land. 9
10
- ‘(2) Subsection (1) is subject to sections 20 and 21. 11
- ‘(3) In this section— 12
- interest* means a legal or equitable interest in the land but does not include native title, a mining interest or an easement. 13
14
- ‘19A Agreement about particular land 15**
- ‘(1) The Minister may enter into a written agreement (an *available State land agreement*) about land, other than excluded land— 16
17
- (a) with a person who has an interest in the land granted by the State; and 18
19
- (b) under which the State and the person agree that the land may be available State land. 20
21
- ‘(2) The Minister may enter into an available State land agreement for particular land only if satisfied that entering into the agreement is appropriate in the circumstances having regard to an evaluation of the land under the Land Act, section 16. 22
23
24
25
- ‘(3) An available State land agreement must provide that on the grant of the land under part 3 the person’s interest in the land is to cease and a new interest granted by the trustee of the land is to have effect in substitution for the person’s interest. 26
27
28
29
- ‘(4) However, if the interest is a lease granted under the Land Act the agreement may provide that the lease is to continue in force under section 33. 30
31
32

-
- ‘(5) Subsection (6) applies if a proposed available State land agreement is to state that a person’s interest in land is to cease and a new interest granted by the proposed trustee of the land is to have effect in substitution for the person’s interest. 1
2
3
4
- ‘(6) To remove any doubt, it is declared that the Minister need not enter into the available State land agreement unless satisfied a new interest granted by the proposed trustee of the land is to have effect in substitution for the person’s interest in the land.’. 5
6
7
8
9

- Clause 26 Amendment of s 22 (Meaning of city or town land) 10**
- Section 22(1), ‘is, at the beginning of the enactment day, within’— 11
12
- omit, insert—* 13
- ‘is within’. 14

- Clause 27 Replacement of s 25 (Lands that are not available State land) 15
16**
- Section 25— 17
- omit, insert—* 18
- ‘25 Land that is not available State land 19**
- ‘(1) To remove any doubt, it is declared that the following land is not available State land— 20
21
- (a) the waters of the sea, and the seabed, other than tidal land declared to be available State land under section 21(1); 22
23
24
- (b) freehold land; 25
- (c) an associated reserve; 26
- (d) land subject to a lease, licence or permit under the Land Act. 27
28
- ‘(2) Despite subsection (1)(d), land subject to a lease, licence or permit under the Land Act is available State land if an available State land agreement is in force for the land.’. 29
30
31

[s 28]

Clause 28	Amendment of s 27 (Deeds of grant to be prepared)	1
	Section 27(3)—	2
	<i>omit, insert—</i>	3
	‘(3) The deed of grant must show that the land is held by the grantee—	4
		5
	(a) if the grantee is a registered native title body corporate appointed as the grantee under section 27A—for the native title holders of the land; or	6
		7
		8
	(b) otherwise—	9
	(i) for the benefit of Aboriginal people particularly concerned with the land and their ancestors and descendants; or	10
		11
		12
	(ii) if the land is prescribed DOGIT land that is to be held for the benefit of Aboriginal people and Torres Strait Islanders particularly concerned with the land—for the benefit of Aboriginal people and Torres Strait Islanders particularly concerned with the land, and their ancestors and descendants.’.	13
		14
		15
		16
		17
		18
Clause 29	Amendment of s 27A (Appointment of registered native title body corporate as grantee to hold land for native title holders)	19
		20
		21
	Section 27A(5)—	22
	<i>omit.</i>	23
Clause 30	Replacement of s 28 (Minister to appoint particular trustees)	24
		25
	Section 28—	26
	<i>omit, insert—</i>	27

‘28	Appointment of grantee to hold land for benefit of Aboriginal people	1 2
‘(1)	This section applies if the Minister does not appoint, under section 27A, a registered native title body corporate as the grantee of land.	3 4 5
‘(2)	The Minister may appoint as grantee of the land—	6
	(a) a CATSI corporation that is qualified to hold the land; or	7
	(b) a land trust; or	8
	(c) the Aurukun Shire Council, if the land is Aurukun Shire lease land; or	9 10
	(d) the Mornington Shire Council, if the land is Mornington Shire lease land.	11 12
‘(3)	However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as a grantee of land under subsection (2) only if—	13 14 15
	(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and	16 17 18
	(b) the registered native title body corporate is registered on the National Native Title Register for the determination.	19 20
‘(4)	Before making the appointment, the Minister must consult with, and consider the views of, Aboriginal people particularly concerned with the land.	21 22 23
‘(5)	Subsection (4) does not apply if an ILUA has been entered into for the land and the entity is nominated in the ILUA as the proposed grantee for the land under this Act.	24 25 26
‘(6)	However, in considering whether to appoint an entity nominated in an ILUA as the proposed grantee for the land, the Minister may have regard to any matter the Minister considers relevant to the proposed appointment, including, for example—	27 28 29 30 31
	(a) whether any Aboriginal people particularly concerned with the land may be adversely affected by the appointment; and	32 33 34

[s 31]

(b) if the Minister is satisfied any Aboriginal people particularly concerned with the land will be adversely affected by the appointment—any action the entity intends to take to address the concerns of the Aboriginal people. 1
2
3
4
5

‘(7) Also, in considering whether to appoint a registered native title body corporate as the proposed grantee for the land, the Minister may have regard to any matter the Minister considers relevant to the proposed appointment, including, for example, the matters mentioned in section 27A(4)(b) and (c). 6
7
8
9
10

‘(8) In appointing a grantee of land under this section, the Minister must have regard to any Aboriginal tradition applicable to the land. 11
12
13

‘(9) Despite subsection (8), the Minister may appoint the Aurukun Shire Council or Mornington Shire Council to be a grantee if the Minister considers that in all the circumstances it is appropriate to do so.’. 14
15
16
17

Clause 31 Amendment of s 28A (Procedure for appointing grantees) 18

(1) Section 28A, heading, ‘grantees’— 19
omit, insert— 20

‘particular grantee’. 21

(2) Section 28A(1), ‘grantees under this part’— 22
omit, insert— 23

‘a grantee of land under this part, other than an entity nominated in an ILUA as the proposed grantee for the land’. 24
25

(3) Section 28A(1)(a), ‘grantees’— 26
omit, insert— 27

‘grantee’. 28

(4) Section 28A(2)(b)(i), ‘each’— 29
omit, insert— 30

‘the’. 31

Clause 32	Omission of s 28B (Application of Trusts Act 1973)	1
	Section 28B—	2
	<i>omit.</i>	3
Clause 33	Amendment of s 29 (Minister to act as soon as possible)	4
(1)	Section 29(1), ‘section 28’—	5
	<i>omit, insert—</i>	6
	‘section 27A or 28’.	7
(2)	Section 29(2), ‘section 12(e)’—	8
	<i>omit, insert—</i>	9
	‘section 12(1)(e)’.	10
(3)	Section 29—	11
	<i>insert—</i>	12
‘(3)	However, the Minister need not act as mentioned in	13
	subsections (1) and (2) in relation to land until the Minister is	14
	reasonably satisfied—	15
(a)	arrangements are in place to ensure—	16
(i)	the Commonwealth and the State can continue to	17
	provide services to communities on the land after it	18
	is granted; and	19
(ii)	the local government for the area in which the land	20
	is situated can continue to provide local	21
	government services to communities on the land	22
	after it is granted; and	23
	<i>Example of an arrangement for paragraph (a)—</i>	24
	a lease	25
(b)	if the land is proposed to be granted to an entity other	26
	than a registered native title body corporate,	27
	arrangements that the Minister considers necessary—	28
(i)	to support use of the land by Aboriginal people	29
	particularly concerned with it; and	30

[s 34]

	(ii) to ensure appropriate services, including, for example, social housing, public works and community infrastructure, can be provided for communities on the land;	1 2 3 4
	are in place to deal with matters relevant to the use of the land after it is granted; and	5 6
	<i>Example of an arrangement for paragraph (b)—</i> an ILUA	7 8
	(c) if the land is or includes township land, arrangements are in place to provide for—	9 10
	(i) the land to continue to be used as township land; and	11 12
	(ii) residents of the township land to continue to live on and access the land, and obtain tenure over the land under this Act.	13 14 15
	<i>Examples of an arrangement for paragraph (c)—</i> an ILUA, a townsite lease or another lease	16 17
	‘(4) In this section— <i>local government services</i> includes any services a local government might ordinarily provide for the community in its local government area.’.	18 19 20 21
Clause 34	Omission of s 31 (Inclusion of additional areas in deed of grant) Section 31— <i>omit.</i>	22 23 24 25
Clause 35	Amendment of s 32 (Deed of grant takes effect on delivery) (1) Section 32(1), from ‘issued’— <i>omit, insert—</i>	26 27 28 29

‘prepared under this division takes effect on the delivery of the deed of grant to the grantee.’. 1
2

- (2) Section 32(2), ‘grantees’— 3
omit, insert— 4
‘grantee’. 5

Clause 36 Amendment of s 33 (Existing interests) 6

- (1) Section 33(2)(a), ‘*Aborigines and Torres Strait Islanders (Land Holding) Act 1985*’— 7
omit, insert— 8
‘Land Holding Act’. 10

- (2) Section 33(2)— 11
insert— 12
‘(c) a trustee (Aboriginal) lease;’. 13

- (3) Section 33(4)— 14
renumber as section 33(7). 15

- (4) Section 33— 16
insert— 17

- ‘(4) However, subsection (5) applies to an interest in transferable land (the *previous interest*) that, under an available State land agreement, is to cease on the grant of the land under this part and a new interest granted by the trustee of the land is to have effect in substitution for the previous interest on the grant of the land. 18
19
20
21
22
23

- ‘(5) Despite subsections (1) to (3), on the grant of the land the previous interest ceases. 24
25

- ‘(6) Subsection (5) applies despite any other Act.’. 26

Clause 37 Amendment of s 34 (Interests to be endorsed on deed) 27

- (1) Section 34(1), ‘*Local Government (Aboriginal Lands) Act 1978*’— 28
29

[s 38]

omit, insert— 1

‘Aurukun and Mornington Shire Leases Act 1978’. 2

(2) Section 34(1), ‘registrar of titles, give to the registrar’— 3

omit, insert— 4

‘chief executive, give to the chief executive’. 5

(3) Section 34(2), ‘Before the registrar of titles issues the deed of
grant, the registrar’— 6
7

omit, insert— 8

‘The chief executive’. 9

(4) Section 34(2)(a)(i) and (ii), ‘registrar’— 10

omit, insert— 11

‘chief executive’. 12

**Clause 38 Omission of s 37 (Registrar of titles must take action etc.
to resolve difficulties)** 13
14

Section 37— 15

omit. 16

Clause 39 Amendment of s 38 (Land Court may resolve difficulties) 17

Section 38(1), ‘registrar of titles’— 18

omit, insert— 19

‘chief executive’. 20

Clause 40 Replacement of pt 3, div 2 (Dealing with transferred land) 21

Part 3, division 2— 22

omit, insert— 23

‘Division 2	Approvals to change how land is held	1 2
‘39	Application to hold Aboriginal land for native title holders	3 4
‘(1)	This section applies if—	5
(a)	a CATSI corporation that is the trustee of Aboriginal land becomes a registered native title body corporate after it became the trustee of the land; and	6 7 8
(b)	under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and	9 10 11
(c)	the registered native title body corporate is registered on the National Native Title Register for the determination.	12 13
‘(2)	The registered native title body corporate may apply to the Minister in the approved form for an approval to hold the land under this Act for the native title holders of the land.	14 15 16
‘40	Decision on application	17
‘(1)	The Minister must consider an application made under section 39 and decide—	18 19
(a)	to give the approval; or	20
(b)	to refuse the application.	21
‘(2)	In considering the application, the Minister must have regard to—	22 23
(a)	whether any Aboriginal people particularly concerned with the land, other than native title holders of the land, may be adversely affected by the approval; and	24 25 26
(b)	if the Minister is satisfied Aboriginal people particularly concerned with the land will be adversely affected by the approval—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people.	27 28 29 30 31

[s 40]

- ‘(3) The Minister may give the approval only if, having regard to the matters mentioned in subsection (2), the Minister is satisfied it is appropriate in the circumstances to give the approval.

‘41 Notices about decision

- ‘(1) The Minister must give the registered native title body corporate written notice of the Minister’s decision under section 40.
- ‘(2) If the Minister gives the approval, the chief executive must notify the approval by gazette notice.
- ‘(3) The gazette notice must—
- (a) state the name of the registered native title body corporate; and
 - (b) include a description of the Aboriginal land held by it that relates to the approval.
- ‘(4) As soon as practicable after the gazette notice is published, the chief executive must give the registrar of titles written notice of the approval.
- ‘(5) The notice must include a description of the Aboriginal land held by the registered native title body corporate for the native title holders of the land.
- ‘(6) On receiving the notice, the registrar must record in the freehold land register that the land is held under this Act by the registered native title body corporate for the native title holders of the land.
- ‘(7) In this section—
- description*, in relation to land, means the description of the land as shown in the freehold land register.

‘41A	Effect of gazette notice	1
	‘On publication of the gazette notice, the registered native title	2
	body corporate is taken to hold the land under this Act for the	3
	native title holders of the land.’.	4
Clause 41	Amendment of s 46 (Grounds on which claim may be made)	5
	(1) Section 46(1)(c)—	6
	<i>omit.</i>	7
	(2) Section 46(2) and (3)—	8
	<i>omit.</i>	9
		10
Clause 42	Amendment of s 47 (How claim is to be made)	11
	(1) Section 47(a) and (b), ‘land claims registrar’—	12
	<i>omit, insert—</i>	13
	‘chief executive’.	14
	(2) Section 47(c)(v)—	15
	<i>omit.</i>	16
Clause 43	Amendment of s 49 (Registrar to determine whether claim duly made)	17
	(1) Section 49, heading, ‘Registrar to determine’—	18
	<i>omit, insert—</i>	19
	‘Deciding’.	20
	(2) Section 49(1), ‘land claims registrar, the registrar must	21
	determine’—	22
	<i>omit, insert—</i>	23
	‘chief executive, the chief executive must decide’.	24
	(3) Section 49(2) to (7) and (10), ‘registrar’—	25
		26

[s 44]

omit, insert— 1

‘chief executive’. 2

(4) Section 49(9), ‘or for the grant of a lease’— 3

omit. 4

Clause 44 Amendment of s 52 (Repeat claims) 5

Section 52, ‘sections 53 to 55’— 6

omit, insert— 7

‘section 53 or 54’. 8

Clause 45 Omission of s 55 (Establishment of claim on ground of economic or cultural viability) 9
10

Section 55— 11

omit. 12

Clause 46 Amendment of s 58 (Time at which it is to be determined whether land is claimable land) 13
14

(1) Section 58, ‘determined’— 15

omit, insert— 16

‘decided’. 17

(2) Section 58, ‘to the land claims registrar’— 18

omit, insert— 19

‘under this part’. 20

Clause 47 Amendment of s 60 (Recommendation to Minister) 21

(1) Section 60(1), from ‘Minister—’— 22

omit, insert— 23

‘Minister that the land be granted in fee simple to the group.’. 24

(2) Section 60(2)— 25

	<i>omit.</i>	1
(3)	Section 60(3) to (6)—	2
	<i>renumber</i> as section 60(2) to (5).	3
(4)	Section 60(2), as renumbered under this section, from 'persons' to 'trustees'—	4 5
	<i>omit, insert</i> —	6
	'entity, or the persons who are to be represented by an entity, that should be appointed to be the grantee of the land as trustee'.	7 8 9
(5)	Section 60(3), as renumbered under this section, 'subsection (3)'—	10 11
	<i>omit, insert</i> —	12
	'subsection (2)'. 'subsection (2)'. 'subsection (2)'. 'subsection (2)'.	13 13 13 13
(6)	Section 60(4)(b), as renumbered under this section, 'or lease granted in relation to'—	14 15
	<i>omit, insert</i> —	16
	'for'.	17
Clause 48	Amendment of s 61 (Resolution of conflicting claims)	18
	Section 61(2)—	19
	<i>omit, insert</i> —	20
'(2)	If—	21
	(a) more than 1 claim is established; and	22
	(b) each of the competing claims is established on 1 or more grounds; and	23 24
	(c) 1 or more of the claims is established on the ground of traditional affiliation;	25 26
	a recommendation must not be made in favour of any other group on the ground of historical association.'	27 28

[s 49]

Clause 49	Omission of s 64 (Leases to be prepared)	1
	Section 64—	2
	<i>omit.</i>	3
Clause 50	Replacement of s 65 (Minister to appoint trustees)	4
	Section 65—	5
	<i>omit, insert—</i>	6
'65	Appointment of grantee	7
	'(1) The Minister may appoint the following entities as grantee of land the subject of a deed of grant prepared under section 63—	8 9 10
	(a) a CATSI corporation that is qualified to hold the land; or	11
	(b) a land trust.	12
	'(2) However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as a grantee of land under subsection (1) only if—	13 14 15
	(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and	16 17 18
	(b) the registered native title body corporate is registered on the National Native Title Register for the determination.	19 20
	'(3) Before making the appointment, the Minister—	21
	(a) must consult with, and consider the views of, the group of Aboriginal people concerned; and	22 23
	(b) unless the Minister is satisfied that exceptional circumstances exist that require the Minister to do otherwise, must have regard to—	24 25 26
	(i) any Aboriginal tradition applicable to the land; and	27
	(ii) the views of the group to the extent the views are not inconsistent with any Aboriginal tradition applicable to the land.	28 29 30

- ‘(4) Also, in considering whether to appoint a registered native title body corporate as the proposed grantee for the land, the Minister may have regard to any matter the Minister considers relevant to the proposed appointment, including, for example—
- (a) whether any of the group of Aboriginal people concerned, other than the native title holders of the land, may be adversely affected by the proposed appointment; and
 - (b) if the Minister is satisfied any of the group of Aboriginal people concerned will be adversely affected by the proposed appointment—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people.’.

Clause 51 Amendment of s 66 (Authority to grant fee simple in, or lease of, claimable land)

- (1) Section 66, heading, ‘, or lease of,’—
omit.
- (2) Section 66, from ‘Act—’—
omit, insert—
‘Act, grant claimable land in fee simple.’.

Clause 52 Omission of ss 67 and 68

Sections 67 and 68—
omit.

Clause 53 Amendment of s 69 (Deed of grant takes effect on delivery)

- (1) Section 69(1), from ‘issued’—
omit, insert—

[s 54]

‘prepared under this division takes effect on the delivery of the deed of grant to the grantee.’. 1
2

(2) Section 69(2), ‘grantees’— 3
omit, insert— 4
‘grantee’. 5

Clause 54 Omission of s 70 (Lease commences on delivery) 6
Section 70— 7
omit. 8

Clause 55 Amendment of s 73 (Cancellation of existing deed of grant) 9
10
Section 73(3), (4) and (6), ‘registrar of titles’— 11
omit, insert— 12
‘chief executive’. 13

Clause 56 Omission of s 74 (Registrar of titles must take action etc. to resolve difficulties) 14
15
Section 74— 16
omit. 17

Clause 57 Amendment of s 75 (Land Court may resolve difficulties) 18
Section 75(1), ‘registrar of titles’— 19
omit, insert— 20
‘chief executive’. 21

Clause 58 Omission of pt 5, div 2 (Dealing with granted land) 22
Part 5, division 2— 23
omit. 24

Clause 59	Amendment of s 80 (Reservations of minerals and petroleum)	1 2
	Section 80, ‘and an Aboriginal lease’—	3
	<i>omit.</i>	4
Clause 60	Amendment of s 81 (Reservations of forest products and quarry material etc.)	5 6
	(1) Section 81(1), ‘, and an Aboriginal (transferred land) lease,’—	7
	<i>omit.</i>	8
	(2) Section 81(1)(b), ‘is reserved’—	9
	<i>omit, insert—</i>	10
	‘are reserved’.	11
	(3) Section 81(2), ‘, and an Aboriginal (non-transferred land) lease,’—	12 13
	<i>omit.</i>	14
	(4) Section 81(4), ‘, or an Aboriginal (transferred land) lease,’—	15
	<i>omit.</i>	16
Clause 61	Replacement of pt 5A (Provisions about particular land trusts)	17 18
	Part 5A—	19
	<i>omit, insert—</i>	20
‘Part 5AAA	Register of entities holding Aboriginal land	21 22
‘82AAA	Keeping register of entities holding Aboriginal land	23
	‘(1) The chief executive must keep a register of entities that hold Aboriginal land (the <i>Aboriginal land holding entity register</i>).	24 25
	‘(2) The register must contain the following information for each entity—	26 27

[s 61]

- (a) the entity's name, address for the service of documents and contact telephone number; 1
2
- (b) a description of the Aboriginal land held by the entity. 3
- '(3) If the entity is a land trust, the register must also contain all the following information about the land trust— 4
5
 - (a) the names and addresses of all the current members of the land trust; 6
7
 - (b) the name of each member of the land trust's executive committee, and the position held by the member; 8
9
 - (c) a contact telephone number for the chairperson and secretary of the land trust; 10
11
 - (d) a copy of the land trust's adopted rules; 12
 - (e) copies of annual financial statements and audit reports the chief executive receives from the land trust under this Act; 13
14
15
 - (f) a statement about whether or not the land trust has, for each financial year, operated in compliance with the Act. 16
17
18
- Note—* 19
 - Under section 130AL, the chief executive must record in the register whether or not a land trust has operated in compliance with the Act. 20
21
22
- '(4) The chief executive may keep the register in the form the chief executive considers appropriate, including, for example, in electronic form. 23
24
25

'82AAB Giving information for register to the chief executive 26

- '(1) Each entity, other than a land trust, that holds Aboriginal land must— 27
28
 - (a) as soon as practicable after the end of each financial year, give to the chief executive the information mentioned in section 82AAA(2) for the entity; and 29
30
31

-
- (b) as soon as practicable after any of the information changes—give the chief executive a written notice of the change. 1
2
3
- ‘(2) A land trust must give to the chief executive all the information the chief executive reasonably requires to ensure the information in the register about the land trust is accurate. 4
5
6
- ‘82AAC Obtaining information in register 7**
- ‘(1) A person may, in the approved form, ask the chief executive to give the person information included in the Aboriginal land holding entity register. 8
9
10
- ‘(2) The chief executive must, if asked under subsection (1), give the person the information included in the publicly available part of the register. 11
12
13
- ‘(3) The chief executive may, if asked under subsection (1), give the person the additional information for a land trust only if the chairperson of the land trust consents in writing to the giving of the information. 14
15
16
17
- ‘(4) In this section— 18
- additional information*, for a land trust, means the following— 19
20
- (a) the names of all the current members of the land trust; 21
- (b) the information mentioned in section 82AAA(3)(b), (d) or (e). 22
23
- publicly available part*, of the Aboriginal land holding entity register, means the part of the register containing all the following information— 24
25
26
- (a) the information mentioned in section 82AAA(2); 27
- (b) for a land trust— 28
- (i) the names of the chairperson and secretary of the land trust; and 29
30
- (ii) the information mentioned in section 82AAA(3)(f). 31
32

[s 61]

‘Part 5AA	Transfer of Aboriginal land by Minister	1 2
‘Division 1	Preliminary	3
‘82AA Purpose of pt 5AA		4
	‘The purpose of this part is to provide for—	5
	(a) particular Aboriginal land to vest in the State; and	6
	(b) the transfer of Aboriginal land that vests in the State to another entity to hold as Aboriginal land.	7 8
‘82AB Application of pt 5AA		9
	‘This part applies to Aboriginal land that is or was held by a CATSI corporation for the benefit of Aboriginal people particularly concerned with the land and their ancestors and descendants, if—	10 11 12 13
	(a) under the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Cwlth)—	14 15
	(i) the corporation stops being registered; and	16
	(ii) the land is vested in the State; or	17
	(b) the corporation is no longer qualified to hold the land.	18
‘Division 2	Vesting and transfer of land	19
‘82AC Vesting of land in the State		20
	‘(1) If the CATSI corporation is no longer qualified to hold the land, the Minister may, by gazette notice, declare that the land vests in the State.	21 22 23
	‘(2) The gazette notice must—	24
	(a) include a description of the land; and	25

-
- (b) state the reason that the CATSI corporation is no longer
qualified to hold the land. 1
2

'82AD How land is held by the State 3

- '(1) This section applies if— 4
- (a) the land vests in the State under the *Corporations
(Aboriginal and Torres Strait Islander) Act 2006*
(Cwlth); or 5
6
7
- (b) the land vests in the State under section 82AC. 8
- '(2) The land— 9
- (a) vests in the State in fee simple; and 10
- (b) the State holds the land for the benefit of the persons for
whose benefit the land was held immediately before it
vested in the State. 11
12
13

'82AE Minister to transfer land as soon as practicable 14

- '(1) The Minister must, by gazette notice as soon as practicable
after the land vests in the State, transfer the land under this
part. 15
16
17
- '(2) The gazette notice must include— 18
- (a) a description of the land being transferred; and 19
- (b) the name of the entity to whom the land is transferred. 20

**'82AF Transfer to registered native title body corporate to
hold for native title holders** 21
22

- '(1) This section applies if— 23
- (a) under the Commonwealth Native Title Act, a
determination has been made that native title exists in
relation to all or a part of the land; and 24
25
26
- (b) there is a registered native title body corporate for the
determination. 27
28

[s 61]

- ‘(2) The Minister may, with the consent of the registered native title body corporate, transfer the land to it. 1
2
- ‘(3) If the Minister transfers the land under this section to a registered native title body corporate, the body corporate holds the land for the native title holders of the land the subject of the determination mentioned in subsection (1)(a). 3
4
5
6
- ‘(4) In considering whether to transfer the land to a registered native title body corporate, the Minister may have regard to any matter the Minister considers relevant to the proposed transfer, including, for example— 7
8
9
10
- (a) whether any Aboriginal people particularly concerned with the land, other than the native title holders of the land, may be adversely affected by the proposed transfer; and 11
12
13
14
- (b) if the Minister is satisfied any Aboriginal people particularly concerned with the land will be adversely affected by the proposed transfer—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people. 15
16
17
18
19
- ‘82AG Transfer to entity to hold for benefit of Aboriginal people 20
21**
- ‘(1) This section applies if the Minister does not transfer the land under section 82AF to a registered native title body corporate. 22
23
- ‘(2) The Minister may transfer the land to— 24
- (a) a CATSI corporation that is qualified to hold the land; or 25
- (b) a land trust. 26
- ‘(3) However, the Minister may transfer the land to a CATSI corporation that is a registered native title body corporate under subsection (2) only if— 27
28
29
- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and 30
31
32

-
- (b) the registered native title body corporate is registered on the National Native Title Register for the determination. 1
2
- ‘(4) Before transferring the land, the Minister must consult with, and consider the views of— 3
4
- (a) if the land is transferred land—Aboriginal people particularly concerned with the land; or 5
6
- (b) if the land is granted land—the group of Aboriginal people for whom the land is held. 7
8
- ‘(5) Also, in considering whether to transfer the land to a registered native title body corporate, the Minister may have regard to any matter the Minister considers relevant to the proposed transfer, including, for example— 9
10
11
12
- (a) whether any Aboriginal people particularly concerned with the land may be adversely affected by the proposed transfer; and 13
14
15
- (b) if the Minister is satisfied any Aboriginal people particularly concerned with the land will be adversely affected by the proposed transfer—any action the registered native title body corporate intends to take to address the concerns of the Aboriginal people. 16
17
18
19
20
- ‘(6) In deciding to transfer land under this section, the Minister must have regard to any Aboriginal tradition applicable to the land. 21
22
23
- ‘(7) If the land is transferred under this section, the entity to whom the land is transferred holds the land for the benefit of the persons for whose benefit the land was held immediately before it was transferred. 24
25
26
27

‘82AH Procedure for transferring land 28

- ‘(1) Before transferring the land, the Minister must— 29
- (a) publish notice of the Minister’s intention to transfer the land in a newspaper or other publication circulating generally in the area in which the land is situated; and 30
31
32

[s 61]

(b)	consider all representations made to the Minister under subsection (4).	1 2
‘(2)	The notice must—	3
(a)	include a description of the land; and	4
(b)	state the following—	5
(i)	the name of the proposed transferee;	6
(ii)	if the land is transferred land—that an Aboriginal person particularly concerned with the land may make written representations to the Minister about the proposed transfer;	7 8 9 10
(iii)	if the land is granted land—that the group of Aboriginal people for whom the land is held may make written representations to the Minister about the proposed transfer;	11 12 13 14
(iv)	the place where the representations may be made;	15
(v)	the period in which the representations must be made.	16 17
‘(3)	The stated period must end at least 28 days after the notice is published.	18 19
‘(4)	A person, or the group, mentioned in subsection (2)(b)(ii) or (iii) may make written representations about the proposed transfer to the Minister within the stated period.	20 21 22
‘82AI	Effect of gazette notice about transfer	23
	‘The transfer of the land under this part has effect on publication of the gazette notice about the transfer under section 82AE.	24 25 26

‘Division 3	Notices to registrar	1
‘82AJ Notice about land		2
‘(1)	If land vests in the State or is transferred under this part, the chief executive must give the registrar written notice of the vesting or transfer.	3 4 5
‘(2)	The notice must include particulars of the land the subject of the vesting or transfer.	6 7
‘(3)	On receiving the notice, the registrar must record in the freehold land register the vesting or transfer.	8 9
‘Part 5A	General provisions for dealing with Aboriginal land	10 11
‘Division 1	Trustee’s power to deal with Aboriginal land and Ministerial consent	12 13 14
‘82A Power to deal with Aboriginal land		15
	‘Subject to this part and part 5AB, the trustee of Aboriginal land may—	16 17
	(a) grant, transfer or otherwise create an interest in, or in relation to, the land in the way the trustee considers appropriate, including, for example, by—	18 19 20
	(i) granting a lease or licence over all or a part of the land; or	21 22
	(ii) consenting to the creation of a mining interest in the land; or	23 24
	(iii) granting an easement over the land; or	25

[s 61]

- (iv) entering into a conservation agreement under the *Nature Conservation Act 1992*, section 45, for the land; or
 - (v) entering into an agreement with the State or the Commonwealth in relation to the getting and sale of forest products or quarry material above, on or below the land; or
 - (b) dedicate a part of the land to public use by registering a plan of subdivision under the Land Title Act, part 4, division 3; or
 - (c) surrender all or a part of the land to the State.
- Note—*
- For restrictions on dealing with particular land in the Cape York Peninsula Region, see section 82R.
- ‘82B Requirement for consultation**
- ‘(1) The trustee of Aboriginal land must not deal with the land unless—
 - (a) the trustee has explained to the Aboriginal people particularly concerned with the land the nature, purpose and effect of the dealing; and
 - (b) the Aboriginal people are given a suitable opportunity to express their views on, and are generally in agreement with, the dealing.
 - ‘(2) Despite section 82T, dealing with land in contravention of subsection (1) is not void under that section.
 - ‘(3) In this section—

deal, with land, means—

 - (a) grant a lease, other than under section 82W(1)(a)(i) for private residential purposes, for more than 10 years over the land; or
 - (b) grant a licence for the use of the land for more than 10 years; or

-
- (c) grant or otherwise create an interest in, or in relation to, the land, other than—
 - (i) a residential tenancy; or
 - (ii) a lease or licence for the use of the land for not more than 10 years; or
 - (iii) a lease under section 82W(1)(a)(i) for private residential purposes; or
 - (d) dedicate a part of the land to public use; or
 - (e) surrender any of the land to the State.
- trustee*, of Aboriginal land, does not include a registered native title body corporate.

‘82C Provision about Minister’s consent

- ‘(1) Subsection (2) applies if the Minister’s prior written consent is required for the grant of a lease or licence by the trustee of Aboriginal land, or for the creation of an interest under a lease or licence.
- ‘(2) The Minister’s consent may be given for—
 - (a) the grant of a particular lease or licence, or a particular type of lease or licence; or
 - (b) the creation of a particular interest under a lease or licence, or a particular type of interest; or
 - (c) if the Minister considers it appropriate—
 - (i) all leases or licences, or all leases or licences of a particular type, that may be granted by the trustee; or
 - (ii) the creation of all interests, or all interests of a particular type, that may be created under a lease or licence.
- ‘(3) Subsection (4) applies if the Minister’s prior written consent is required for the grant of a townsite sublease or licence by the lessee of a townsite lease, or for the creation of an interest under a townsite sublease or licence.

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‘(4) The Minister’s consent may be given for—	1
(a) the grant of a particular townsite sublease or licence, or a particular type of townsite sublease or licence; or	2 3
(b) the creation of a particular interest under a townsite sublease or licence, or a particular type of interest; or	4 5
(c) if the Minister considers it appropriate—	6
(i) all townsite subleases or licences, or all townsite subleases or licences of a particular type, that may be granted by the lessee; or	7 8 9
(ii) the creation of all interests, or all interests of a particular type, that may be created under a townsite sublease or licence.	10 11 12
‘Division 2 Sale or mortgage prohibited	13
‘82D Prohibition on sale or mortgage of Aboriginal land	14
‘The trustee of Aboriginal land must not sell or mortgage the land.	15 16
‘Division 3 Grant of licences	17
‘82E Grant of licence for Aboriginal land	18
‘(1) The trustee of Aboriginal land may grant a licence for the use of all or a part of the land only—	19 20
(a) to an Aborigine for not more than 30 years; or	21
(b) to the State for not more than 30 years; or	22
(c) to another person—	23
(i) for not more than 10 years; or	24
(ii) with the Minister’s prior written consent, for more than 10 years but not more than 30 years.	25 26

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- ‘(2) The lessee of the townsite lease may grant a licence for the use of all or a part of the lease land only—
- (a) to an Aborigine for not more than 30 years; or
 - (b) to the State for not more than 30 years; or
 - (c) to another person—
 - (i) for not more than 10 years; or
 - (ii) with the Minister’s prior written consent, for more than 10 years but not more than 30 years.

‘82F Conditions of licences

- ‘(1) A licence granted under section 82E(1)(a) or (2)(a) is subject to the condition that an interest may be created under the licence in favour of a person who is not an Aborigine only if—
- (a) the interest is in favour of the spouse, or former spouse, of an Aborigine or of an Aborigine who is deceased; or
 - (b) the interest is—
 - (i) for not more than 10 years; or
 - (ii) created with the Minister’s prior written consent.
- ‘(2) A licence granted under section 82E(1)(b) or (c), or (2)(b) or (c), is subject to the condition that an interest can not be created under the licence.
- ‘(3) A licence granted under section 82E(1) or (2) can not be renewed or transferred.

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‘Division 4	Transfer of Aboriginal land by trustee	1 2
‘Subdivision 1	Land held other than by CATSI corporation	3 4
‘82G	Application of sdiv 1	5
	‘This subdivision applies to Aboriginal land held by—	6
	(a) a land trust; or	7
	(b) Aurukun Shire Council; or	8
	(c) Mornington Shire Council.	9
‘82H	Transfer of Aboriginal land	10
	‘(1) The trustee of the Aboriginal land (the <i>transferor</i>) may transfer all or a part of the land only—	11 12
	(a) with the Minister’s written approval; and	13
	(b) if the trustee is a land trust—to a following entity (the <i>transferee</i>)—	14 15
	(i) another land trust;	16
	(ii) a CATSI corporation that is qualified to hold the land;	17 18
	(iii) Aurukun Shire Council;	19
	(iv) Mornington Shire Council; and	20
	(c) if the trustee is Aurukun Shire Council or Mornington Shire Council—a CATSI corporation that is qualified to hold the land (also the <i>transferee</i>).	21 22 23
	‘(2) However, the trustee may transfer all or a part of the land to a CATSI corporation that is a registered native title body corporate only if—	24 25 26

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- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
- (b) the registered native title body corporate is registered on the National Native Title Register for the determination.
- ‘(3) If a trustee transfers land under this subdivision—
- (a) all improvements on the land must be transferred with the land; and
- (b) for a transferee that is a registered native title body corporate—the transferee holds the land for—
- (i) the native title holders of the land if the transferor and the transferee agree it is to be held for the native title holders; or
- (ii) the benefit of the Aboriginal people particularly concerned with the land and their ancestors and descendants if the land is transferred land and subparagraph (i) does not apply to the transfer; or
- (iii) the benefit of the group of Aboriginal people and their ancestors and descendants if the land is granted land and subparagraph (i) does not apply to the transfer; and
- (c) for a transferee that is not a registered native title body corporate—the transferee holds the land for—
- (i) the benefit of the Aboriginal people particularly concerned with the land and their ancestors and descendants if the land is transferred land; or
- (ii) the benefit of the group of Aboriginal people and their ancestors and descendants if the land is granted land; and
- (d) if the trustee is a land trust and all the Aboriginal land held by the trustee is transferred to the transferee—
- (i) the land trust for the land that is transferred is dissolved; and

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- (ii) all the assets and liabilities of the trustee become the assets and liabilities of the transferee; and 1
2
 - (e) if the trustee is a land trust and paragraph (d) does not apply—the assets and liabilities of the trustee mentioned in section 82J(1)(a)(ii) become the assets and liabilities of the transferee. 3
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- ‘82I Application for approval to transfer 7**
- ‘(1) The trustee of the Aboriginal land may apply to the Minister for an approval to transfer all or a part of the land. 8
9
- ‘(2) The application must— 10
 - (a) be in the approved form; and 11
 - (b) if the transferor or transferee is a land trust—be accompanied by evidence satisfactory to the Minister of each matter mentioned in section 82J(1)(a), (b) or (c) that applies to the transfer; and 12
13
14
15
 - (c) if the transferee is a CATSI corporation—be accompanied by evidence satisfactory to the Minister of the matters mentioned in section 82J(1)(c). 16
17
18

- ‘82J Minister’s approval to transfer 19**
- ‘(1) The Minister may give an approval to transfer the land only if satisfied— 20
21
 - (a) if the transferor is a land trust—at least 75% of the transferor’s members present at a general meeting of the transferor, agree to the transfer of— 22
23
24
 - (i) the land; and 25
 - (ii) the assets and liabilities of the transferor that will become the assets and liabilities of the transferee; and 26
27
28
 - (b) if the transferee is a land trust—at least 75% of the transferee’s members present at a general meeting of the transferee, agree to the transfer of— 29
30
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- (i) the land; and 1
- (ii) the assets and liabilities of the transferor that will 2
become the assets and liabilities of the transferee; 3
and 4
- (c) if the transferee is a CATSI corporation— 5
- (i) the transferee agrees to the transfer; and 6
- (ii) the transferee is qualified to hold the land; and 7
- (d) it is appropriate in the circumstances to transfer the land. 8
- ‘(2) If the Minister gives an approval to transfer the land, the chief 9
executive must notify the approval by gazette notice. 10
- ‘(3) The gazette notice must— 11
- (a) include all of the following— 12
- (i) the name of the transferor; 13
- (ii) a description of the land being transferred; 14
- (iii) details of each registered interest in the land being 15
transferred; 16
- (iv) a description of all Aboriginal land, if any, that will 17
be held by the transferor after the transfer; 18
- (v) the name of the transferee; 19
- (vi) a description of all Aboriginal land that will be 20
held by the transferee after the transfer; and 21
- (b) if the transferor is a land trust that is dissolved under 22
section 82H(3)(d)(i) because of the transfer—state the 23
land trust will be dissolved. 24
- ‘(4) In this section— 25
- description***, in relation to land, means the description of the 26
land as shown in the freehold land register. 27
- registered interest*** means an interest registered under the 28
Land Title Act. 29

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‘82K	Effect of gazette notice about transfer	1
	‘On publication of the gazette notice the Aboriginal land proposed to be transferred may be transferred to the transferee.	2 3 4
‘Subdivision 2	Land held by CATSI corporation	5
‘82L	Application of sdiv 2	6
	‘(1) This subdivision applies to Aboriginal land held by a CATSI corporation.	7 8
	‘(2) However, this subdivision does not apply to a transfer of Aboriginal land from a registered native title body corporate (the <i>original body corporate</i>) to another registered native title body corporate that, under the Commonwealth Native Title Act, replaces the original body corporate.	9 10 11 12 13
‘82M	Transfer of Aboriginal land	14
	‘(1) The trustee of the Aboriginal land (the <i>transferor</i>) may transfer all or a part of the land only—	15 16
	(a) with the Minister’s written approval; and	17
	(b) to another CATSI corporation that is qualified to hold the land (the <i>transferee</i>).	18 19
	‘(2) However, the trustee may transfer all or a part of the land to a CATSI corporation that is a registered native title body corporate only if—	20 21 22
	(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and	23 24 25
	(b) the registered native title body corporate is registered on the National Native Title Register for the determination.	26 27
	‘(3) The transferee holds the land for—	28
	(a) the native title holders of the land, if—	29

(i)	the transferee is a registered native title body corporate; and	1 2
(ii)	the transferor and the transferee agree it is to be held for the native title holders; or	3 4
(b)	otherwise—	5
(i)	the benefit of the Aboriginal people particularly concerned with the land and their ancestors and descendants if the land is transferred land; or	6 7 8
(ii)	the benefit of the group of Aboriginal people and their ancestors and descendants if the land is granted land.	9 10 11
'82N	Application for approval to transfer	12
'(1)	The trustee of the Aboriginal land may apply to the Minister for an approval to transfer all or a part of the land.	13 14
'(2)	The application must be in the approved form.	15
'82O	Minister's approval to transfer	16
'(1)	The Minister may give an approval to transfer the land only if satisfied—	17 18
(a)	the transferee agrees to the transfer; and	19
(b)	the transferee is qualified to hold the land; and	20
(c)	it is appropriate in the circumstances to transfer the land.	21
'(2)	If the Minister gives an approval to transfer the land, the chief executive must notify the approval by gazette notice.	22 23
'(3)	The gazette notice must include all of the following—	24
(a)	the name of the transferor;	25
(b)	a description of the land being transferred;	26
(c)	the name of the transferee.	27
'(4)	In this section—	28

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<i>description</i> , in relation to land, means the description of the land as shown in the freehold land register.	1 2
'82P Effect of gazette notice about transfer	3
'On publication of the gazette notice the Aboriginal land proposed to be transferred may be transferred to the transferee.	4 5 6
'Subdivision 3 Exemption from fees and charges	7
'82Q Exemption	8
'If a trustee of Aboriginal land transfers all or a part of the land under this division, no fee or charge is payable by the trustee or the entity to whom the land is transferred in relation to lodgement and registration of any instrument in the land registry to give effect to the transfer.	9 10 11 12 13
'Division 5 Land in Cape York Peninsula Region	14 15
'82R Dealing with Aboriginal land in Cape York Peninsula Region	16 17
'(1) Subsection (2) applies to Aboriginal land in the Cape York Peninsula Region if the State and the trustee of the land agree the land or a part of the land is to become a national park (Cape York Peninsula Aboriginal land).	18 19 20 21
'(2) The trustee must, before the land or part becomes a national park (Cape York Peninsula Aboriginal land), enter into an indigenous management agreement with the State about the management of the land or part.	22 23 24 25
'(3) The trustee of land that is a national park (Cape York Peninsula Aboriginal land)—	26 27

(a)	may surrender all or any part of the land to the State; and	1 2
(b)	must not, other than under the <i>Nature Conservation Act 1992</i> , sections 42AD and 42AE, transfer, grant or otherwise create, or consent to the creation of, any other interest in the land.	3 4 5 6
‘(4)	Subsection (3)(b) applies despite any other provision of this or another Act.	7 8
‘Division 6	Other matters	9
‘82S	Trustee to advise chief executive of change to description of land	10 11
	‘If a trustee deals with Aboriginal land held by the trustee in a way that changes the description of the land as shown in the freehold land register, the trustee must as soon as practicable after the dealing happens give the chief executive written notice of the change.	12 13 14 15 16
‘82T	Particular dealings in Aboriginal land void	17
‘(1)	A grant, transfer or other creation of an interest in Aboriginal land in contravention of this part or part 5AB is void.	18 19
	<i>Note—</i>	20
	See also section 82B.	21
‘(2)	Subsection (1) does not apply to a registered interest.	22
‘82U	Provision about resumption of Aboriginal land etc.	23
‘(1)	An interest in Aboriginal land can not be resumed, taken or otherwise compulsorily acquired, sold or dealt with other than under the Acquisition Act by a constructing authority.	24 25 26
‘(2)	However, an interest in Aboriginal land may be taken under the Acquisition Act only for a relevant purpose.	27 28

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- ‘(3) To remove any doubt, it is declared that, for taking an interest in Aboriginal land under the Acquisition Act, the Aboriginal land is land as defined in that Act. 1
2
3
- ‘(4) Subsection (1) has effect despite any other Act, whether enacted before or after the commencement of this section. 4
5
- ‘(5) In this section— 6
- relevant purpose* means any purpose for which land may be taken under the Acquisition Act by a constructing authority, other than a purpose under— 7
8
9
- (a) the *Geothermal Energy Act 2010*; or 10
- (b) the *Greenhouse Gas Storage Act 2009*; or 11
- (c) the *Petroleum and Gas (Production and Safety) Act 2004*; or 12
13
- (d) the *State Development and Public Works Organisation Act 1971*. 14
15

‘82V Devolution of granted land 16

- ‘(1) This section applies if— 17
- (a) a trustee holds granted land for the benefit of a single group of Aboriginal people; and 18
19
- (b) the last surviving member of the group dies without leaving a descendant. 20
21
- ‘(2) The trustee holds the land for the benefit of Aboriginal people particularly concerned with the land unless the Minister decides, in writing, that the trustee holds the land for a stated group of Aboriginal people. 22
23
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25
- ‘(3) The chief executive must give written notice to the registrar of titles about how the land is vested in the trustee. 26
27
- ‘(4) On receiving the notice, the registrar of titles must record in the freehold land register how the land is vested in the trustee. 28
29
- ‘(5) Before making a decision under subsection (2), the Minister must consult with the Aboriginal people particularly concerned with the land and, unless the Minister is satisfied 30
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that exceptional circumstances exist that require the Minister to do otherwise, must have regard to—	1 2
(a) any Aboriginal tradition applicable to the land; and	3
(b) the views of the Aboriginal people to the extent they are not inconsistent with the Aboriginal tradition.	4 5
‘(6) Subsection (2) applies despite any other Act.	6
‘Part 5AB Leasing of Aboriginal Land	7
‘Division 1 Grant of leases for Aboriginal land	8
‘82W Grant of lease for Aboriginal land	9
‘(1) The trustee of Aboriginal land may grant a lease over all or a part of the land only if—	10 11
(a) the lease is for not more than 99 years and is granted to—	12 13
(i) an Aborigine; or	14
(ii) the State; or	15
(iii) another person; or	16
(b) the lease is a perpetual lease granted to a local government over land that is township land.	17 18
‘(2) A lease mentioned in subsection (1)(a) is a <i>standard lease</i> .	19
‘(3) A lease mentioned in subsection (1)(b) is a <i>townsite lease</i> .	20
‘(4) Despite subsection (1)(a)(i)—	21
(a) a person who is not an Aborigine may be a party to a lease granted under the subsection if—	22 23
(i) the lease is for private residential purposes; and	24
(ii) the person is the spouse of an Aborigine; and	25

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(b)	a lease may be granted under the subsection for private residential purposes to a person who is not an Aborigine if the person is the spouse, or former spouse, of an Aborigine or of an Aborigine who is deceased.	1 2 3 4
‘Division 2	Standard leases	5
‘Subdivision 1	Restrictions on grant of standard leases	6 7
‘82X	Restrictions on grant of standard lease to an Aborigine	8 9
‘(1)	This section applies to standard lease under section 82W(1)(a)(i).	10 11
‘(2)	If the lease is for more than 30 years it may be granted only—	12
(a)	for private residential purposes; or	13
(b)	with the Minister’s prior written consent, for another purpose.	14 15
	<i>Examples of another purpose for paragraph (b)—</i>	16
	a commercial purpose or providing public infrastructure	17
‘(3)	The Minister may consent to the grant of the lease for another purpose under subsection (2)(b) only if—	18 19
(a)	having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and	20 21 22
(b)	for a lease for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.	23 24 25
	<i>Note—</i>	26
	For a lease for more than 30 years and for a commercial purpose, also see section 82YC.	27 28

'82Y Restrictions on grant of standard lease to State	1
'(1) This section applies to a standard lease under section 82W(1)(a)(ii).	2 3
'(2) If the lease is for more than 30 years it may be granted only—	4
(a) for a following purpose—	5
(i) a purpose under the <i>Housing Act 2003</i> ;	6
(ii) providing public infrastructure;	7
(iii) providing residential accommodation for public service employees or police officers; or	8 9
(b) with the Minister's prior written consent, for another purpose.	10 11
<i>Example of another purpose for paragraph (b)—</i>	12
a commercial purpose	13
'(3) The Minister may consent to the grant of the lease for another purpose under subsection (2)(b) only if—	14 15
(a) having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and	16 17 18
(b) for a lease for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.	19 20 21
'82YA Restrictions on grant of standard lease to another person	22 23
'(1) This section applies to a standard lease under section 82W(1)(a)(iii).	24 25
'(2) The lease may be granted for a private residential purpose only if the lease supports a standard lease granted to the person for a commercial purpose.	26 27 28
'(3) If the lease is for more than 10 years it may be granted only with the Minister's prior written consent unless the lease is for—	29 30 31

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(a)	a commercial purpose and for not more than 30 years; or	1
(b)	a private residential purpose to support a lease for a commercial purpose.	2 3
‘(4)	The Minister may consent to the grant of the lease only if—	4
(a)	having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and	5 6 7
(b)	for a lease for more than 30 years and for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.	8 9 10
‘Subdivision 2	Requirements for Minister’s consent	11 12
‘82YB	General requirements for Minister’s consent	13
‘(1)	A person seeking the Minister’s consent to the grant of a standard lease must give the Minister the information or documents reasonably required by the Minister to show—	14 15 16
(a)	the purpose of the lease; and	17
(b)	that the grant of the lease is for the benefit of persons for whom the trustee holds the land; and	18 19
(c)	if the lease is for more than 30 years—that the grant of the lease is appropriate in the circumstances.	20 21
‘(2)	Also, a person seeking the Minister’s consent to the grant of a standard lease for more than 30 years for a commercial purpose must give the Minister—	22 23 24
(a)	a business plan outlining the details of the commercial purpose of the lease, including, for example, financial details about any proposed development under the lease; and	25 26 27 28
(b)	evidence to show that an appropriate return on the investment for the commercial purpose can not be obtained under a lease for not more than 30 years; and	29 30 31

(c)	other information or documents reasonably required by the Minister to show the purpose of the lease.	1 2
‘(3)	In considering whether to give consent to the grant of a standard lease, the Minister—	3 4
(a)	must have regard to the information or documents given to the Minister under subsection (1) or (2); and	5 6
(b)	may have regard to other information the Minister considers relevant to the proposed lease.	7 8
‘(4)	Before giving consent to the grant of a standard lease for more than 30 years, the Minister must be satisfied—	9 10
(a)	the trustee has complied with section 82B(1)(a) for the lease; and	11 12
(b)	the Aboriginal people particularly concerned with the lease land are generally in agreement with the grant of the lease.	13 14 15
‘82YC	Requirement for Minister’s consent for standard lease for commercial purpose	16 17
‘(1)	Before the Minister consents to the grant of a standard lease for more than 30 years for a commercial purpose, the Minister must—	18 19 20
(a)	obtain an independent assessment of—	21
(i)	the business plan and evidence given to the Minister under section 82YB(2)(a) and (b); and	22 23
(ii)	the proposed lessee’s financial and managerial capabilities; and	24 25
(b)	be satisfied, having regard to the independent assessment, that—	26 27
(i)	any proposed development under the lease will be commercially viable; and	28 29
(ii)	the evidence given under section 82YB(2)(b) satisfactorily shows that an appropriate return on the investment for the purpose of the lease can not	30 31 32

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be obtained under a lease for not more than 30 years; and	1 2
(iii) the proposed lessee's financial and managerial capabilities are appropriate for carrying out any proposed development under the lease.	3 4 5
'(2) The proposed lessee must pay the cost of the independent assessment.	6 7
'(3) The cost is not refundable.	8
'82YD Requirement for Minister's consent for creation of interest under a standard lease	9 10
'(1) This section applies if, under section 82YT, an interest under a standard lease may be created only with the Minister's written consent.	11 12 13
'(2) The Minister may consent to the creation of the interest only if—	14 15
(a) having regard to the nature of the interest, the Minister is satisfied the creation of the interest is for the benefit of persons for whom the trustee holds the lease land; and	16 17 18
(b) if the lease is for more than 30 years—	19
(i) the interest is consistent with the purpose for which the lease was granted; or	20 21
(ii) the interest would not diminish the purpose for which the lease was granted.	22 23
'(3) A person seeking the Minister's consent must give the Minister the information or documents relevant to the proposed interest reasonably required by the Minister, including, for example, information or documents to show that the creation of the interest is for the benefit of persons for whom the trustee holds the lease land.	24 25 26 27 28 29

‘Division 3	Townsite leases	1
‘Subdivision 1	Restriction on grant of townsite leases	2 3
‘82YE Minister’s consent for grant of townsite lease		4
‘(1)	A townsite lease may be granted only with the Minister’s prior written consent.	5 6
‘(2)	The Minister may consent to the grant of a townsite lease only if—	7 8
(a)	the lease is over an entire lot as shown in the appropriate register; and	9 10
(b)	the Minister is satisfied that any existing interests in the lease land that is to be a town site under the lease are not inconsistent with the lease.	11 12 13
‘Subdivision 2	Requirements for Minister’s consent	14 15
‘82YF General requirements for Minister’s consent		16
‘(1)	A person seeking the Minister’s consent to the grant of a townsite lease must give the Minister the information or documents reasonably required by the Minister to show—	17 18 19
(a)	the purpose of the lease; and	20
(b)	the grant of the lease is for the benefit of persons for whom the trustee holds the lease land; and	21 22
(c)	the grant of the lease—	23
(i)	will facilitate the continued operation of a township on the lease land; and	24 25

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(ii)	will not prevent residents of the township land from continuing to live on and access the land, or from obtaining tenure over the land under this Act.	1 2 3
‘(2)	In considering whether to give consent to the grant of a townsite lease, the Minister—	4 5
(a)	must have regard to the information or documents given to the Minister under subsection (1); and	6 7
(b)	may have regard to other information the Minister considers relevant to the proposed lease.	8 9
‘(3)	Before giving consent to the grant of a townsite lease, the Minister must be satisfied—	10 11
(a)	the trustee has complied with section 82B(1)(a) for the lease; and	12 13
(b)	the Aboriginal people particularly concerned with the lease land are generally in agreement with the grant of the lease; and	14 15 16
(c)	the grant of the lease—	17
(i)	will facilitate the continued operation of a township on the lease land; and	18 19
(ii)	will not prevent residents of the township land from continuing to live on and access the land, or from obtaining tenure over the land under this Act.	20 21 22
‘Subdivision 3	Provisions about dealing with townsite leases	23 24
‘82YG	Transfer or amendment of townsite lease	25
‘(1)	A townsite lease must not be transferred or amended without—	26 27
(a)	the agreement of both the trustee and the lessee of the lease land; and	28 29
(b)	the Minister’s prior written consent.	30

‘(2) A person seeking the Minister’s consent to the transfer or amendment of a townsite lease must give the Minister the information or documents relevant to the proposed transfer or amendment reasonably required by the Minister.	1 2 3 4
‘(3) In considering whether to consent to the transfer of a townsite lease, the Minister must consider whether the proposed transferee can comply with the conditions of the lease.	5 6 7
‘(4) The Minister may consent to the amendment of a townsite lease only if satisfied—	8 9
(a) the amendment does not significantly change the conditions of the townsite lease; and	10 11
(b) the amendment will not diminish the purpose of the lease.	12 13
‘(5) A townsite lease must not be transferred to a person who, under this Act, would not be entitled to a grant of the lease.	14 15
‘82YH Townsite lease and transfer, amendment or surrender of lease to be registered	16 17
‘(1) A townsite lease, and any transfer, amendment or surrender of a townsite lease, must be registered.	18 19
‘(2) Despite the Land Title Act, section 65(2), the instrument of lease for a townsite lease must include a plan of survey identifying the lease land.	20 21 22
‘82YI Surrender of townsite lease	23
‘A townsite lease must not be surrendered without the Minister’s prior written consent.	24 25
‘82YJ No forfeiture of townsite lease	26
‘A townsite lease can not be forfeited.	27

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‘Subdivision 4	Effect of townsite lease on existing interests	1 2
‘82YK Lessee of townsite lease taken to be lessor of existing leases		3 4
‘(1)	Subsection (2) applies if a townsite lease is granted over Aboriginal land that is, immediately before the grant of the townsite lease, the subject of a following lease (each a <i>continued lease</i>)—	5 6 7 8
	(a) a lease granted under the Land Holding Act;	9
	(b) a lease under the Land Act;	10
	(c) a trustee (Aboriginal) lease.	11
‘(2)	On the grant of the townsite lease, the lessee for the townsite lease is substituted for the lessor as a party to the continued lease.	12 13 14
	<i>Note—</i>	15
	Under section 33(2) the trustee of the Aboriginal land is the lessor of the continued lease.	16 17
‘(3)	Section 33(3) applies for the continued lease as if the reference in that subsection to the trustee of the land were a reference to the lessee of the townsite lease.	18 19 20
‘(4)	Subsection (5) applies if lease land for a townsite lease—	21
	(a) is Aboriginal land that was Aurukun Shire lease land or Mornington Shire lease land; and	22 23
	(b) is the subject of a sublease under a lease granted under the <i>Aurukun and Mornington Shire Leases Act 1978</i> .	24 25
‘(5)	On the grant of the townsite lease—	26
	(a) a sublease mentioned in subsection (4)(b) continues in force and is taken to be a townsite sublease; and	27 28
	(b) the lessee for the townsite lease is substituted for the lessor as a party to the townsite sublease.	29 30

‘Division 4	Townsite subleases	1
‘Subdivision 1	Grant of subleases under townsite lease	2 3
‘82YL Grant of sublease		4
‘(1)	The lessee of a townsite lease may grant a sublease (a <i>townsite sublease</i>) over all or a part of the lease land.	5 6
‘(2)	A townsite sublease may not be granted for more than 99 years and may be granted only to—	7 8
(a)	an Aborigine; or	9
(b)	the State; or	10
(c)	another person.	11
‘(3)	Despite subsection (2)(a)—	12
(a)	a person who is not an Aborigine may be a party to a sublease granted under the subsection if—	13 14
(i)	the sublease is for private residential purposes; and	15
(ii)	the person is the spouse of an Aborigine; and	16
(b)	a sublease may be granted under the subsection for private residential purposes to a person who is not an Aborigine if the person is the spouse, or former spouse, of an Aborigine or of an Aborigine who is deceased.	17 18 19 20
‘Subdivision 2	Requirements about grants of subleases under townsite leases	21 22
‘82YM Restrictions on grant of townsite sublease to an Aborigine		23 24
‘(1)	This section applies to a townsite sublease under section 82YL(2)(a).	25 26

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- ‘(2) If the sublease is for more than 30 years, it may be granted only— 1
2
(a) for private residential purposes; or 3
(b) with the Minister’s prior written consent, for another 4
purpose. 5
Examples of another purpose for paragraph (b)— 6
a commercial purpose or providing public infrastructure 7
- ‘(3) The Minister may consent to the grant of the sublease for 8
another purpose under subsection (2)(b) only if— 9
(a) having regard to the nature of the sublease, the Minister 10
is satisfied the grant of the sublease would not diminish 11
the purpose for which the townsite lease was granted; 12
and 13
(b) for a townsite sublease for more than 30 years and for a 14
commercial purpose—the sublease is granted over an 15
entire lot as shown in the appropriate register. 16
- Note—* 17
For a lease for more than 30 years and for a commercial purpose, also 18
see section 82YQ. 19

‘82YN Restrictions on grant of townsite sublease to State 20

- ‘(1) This section applies to a townsite sublease under section 21
82YL(2)(b). 22
- ‘(2) If the sublease is for more than 30 years it may be granted 23
only— 24
(a) for a following purpose— 25
(i) a purpose under the *Housing Act 2003*; 26
(ii) providing public infrastructure; 27
(iii) providing residential accommodation for public 28
service employees or police officers; or 29
(b) with the Minister’s prior written consent, for another 30
purpose. 31

<i>Example of another purpose for paragraph (b)—</i>	1
a commercial purpose	2
‘(3) The Minister may consent to the grant of the sublease for another purpose under subsection (2)(b) only if—	3 4
(a) having regard to the nature of the sublease, the Minister is satisfied the grant of the sublease would not diminish the purpose for which the townsite lease was granted; and	5 6 7 8
(b) for a townsite sublease for a commercial purpose and for more than 30 years—the sublease is granted over an entire lot as shown in the appropriate register.	9 10 11
‘82YO Restrictions on grant of townsite sublease to another person	12 13
‘(1) This section applies to a townsite sublease under section 82YL(2)(c).	14 15
‘(2) The sublease may be granted for a private residential purpose only if the sublease supports a sublease granted to the person for a commercial purpose.	16 17 18
‘(3) If the sublease is for more than 10 years it may be granted only with the Minister’s prior written consent unless the sublease is for—	19 20 21
(a) a commercial purpose and for not more than 30 years; or	22
(b) a private residential purpose to support a sublease for a commercial purpose.	23 24
‘(4) The Minister may consent to the grant of the townsite sublease only if—	25 26
(a) having regard to the nature of the sublease, the Minister is satisfied the grant of the sublease would not diminish the purpose for which the townsite lease was granted; and	27 28 29 30
(b) for a townsite sublease for more than 30 years and for a commercial purpose—the sublease is granted over an entire lot as shown in the appropriate register.	31 32 33

[s 61]

‘Subdivision 3	Requirements for Minister’s consent	1 2
‘82YP	General requirements for Minister’s consent	3
‘(1)	A person seeking the Minister’s consent to the grant of a townsite sublease must give the Minister the information or documents reasonably required by the Minister to show—	4 5 6
	(a) the purpose of the sublease; and	7
	(b) the sublease will not diminish the purpose for which the townsite lease was granted; and	8 9
	(c) if the sublease is for more than 30 years—the grant of the sublease is appropriate in the circumstances.	10 11
‘(2)	Also, a person seeking the Minister’s consent to the grant of a townsite sublease for more than 30 years for a commercial purpose must give the Minister—	12 13 14
	(a) a business plan outlining the details of the commercial purpose of the sublease, including, for example, financial details about any proposed development under the sublease; and	15 16 17 18
	(b) evidence to show that an appropriate return on the investment for the commercial purpose can not be obtained under a sublease for not more than 30 years; and	19 20 21 22
	(c) other information or documents reasonably required by the Minister to show the purpose of the sublease.	23 24
‘(3)	In considering whether to give consent to the grant of a townsite sublease, the Minister—	25 26
	(a) must have regard to the information or documents given to the Minister under subsection (1) or (2); and	27 28
	(b) may have regard to other information the Minister considers relevant to the proposed sublease.	29 30
‘(4)	Before giving consent to the grant of a townsite sublease for more than 30 years, the Minister must be satisfied the grant of	31 32

the sublease will not diminish the purpose for which the
townsite lease was granted. 1
2

**'82YQ Requirement for Minister's consent for townsite
sublease for commercial purpose 3
4**

- '(1) Before the Minister consents to the grant of a townsite
sublease for more than 30 years for a commercial purpose, the
Minister must— 5
6
7
- (a) obtain an independent assessment of— 8
- (i) the business plan and evidence given to the
Minister under section 82YP(2)(a) and (b); and 9
10
- (ii) the proposed sublessee's financial and managerial
capabilities; and 11
12
- (b) be satisfied, having regard to the independent
assessment, that— 13
14
- (i) any proposed development under the sublease will
be commercially viable; and 15
16
- (ii) the evidence given under section 82YP(2)(b)
satisfactorily shows that an appropriate return on
the investment for the purpose of the sublease can
not be obtained under a sublease for not more than
30 years; and 17
18
19
20
21
- (iii) the proposed sublessee's financial and managerial
capabilities are appropriate for carrying out any
proposed development under the lease. 22
23
24
- '(2) The proposed sublessee must pay the cost of the independent
assessment. 25
26
- '(3) The cost is not refundable. 27

[s 61]

‘82YR Requirement for Minister’s consent for creation of interest under a townsite sublease	1 2
‘(1) This section applies if, under section 82YT, an interest under a townsite sublease may be created only with the Minister’s written consent.	3 4 5
‘(2) The Minister may consent to the creation of the interest only if—	6 7
(a) the interest is consistent with the purpose for which the townsite lease was granted; or	8 9
(b) the interest would not diminish the purpose for which the townsite lease was granted.	10 11
‘(3) A person seeking the Minister’s consent must give the Minister the information or documents relevant to the proposed interest reasonably required by the Minister, including, for example, information or documents to show that the creation of the interest would not diminish the purpose for which the townsite lease was granted.	12 13 14 15 16 17
‘Division 5 Common provisions for standard leases and townsite subleases	18 19
‘Subdivision 1 Preliminary	20
‘82YS Definitions for div 5	21
‘In this division—	22
<i>lease</i> means—	23
(a) a standard lease; or	24
(b) a townsite sublease.	25
<i>lessor</i> means—	26
(a) for a standard lease—the trustee of the lease land; or	27

-
- (b) for a townsite sublease—the lessee of the townsite lease 1
under which the townsite sublease is granted. 2

‘Subdivision 2 Conditions of leases 3

‘82YT Conditions of leases—general 4

- ‘(1) A lease is subject to a condition that an interest, other than a 5
mortgage of the lease, for a term of more than 10 years may 6
be created under the lease only with the Minister’s prior 7
written consent. 8

Note— 9

For requirements for the Minister’s consent, see sections 82YD and 10
82YR. 11

- ‘(2) Despite subsection (1)— 12

- (a) an interest under a lease granted under section 13
82W(1)(a)(i) or 82YL(2)(a) may be created without the 14
Minister’s prior written consent if the interest is in 15
favour of— 16

(i) an Aborigine; or 17

(ii) another person who is not an Aborigine if the 18
person is the spouse, or former spouse, of an 19
Aborigine or of an Aborigine who is deceased; and 20

- (b) an interest under another lease may be created without 21
the Minister’s prior written consent if, under this part, 22
the grant of the lease did not require the consent of the 23
Minister. 24

- ‘(3) A lease may include a condition that— 25

(a) a stated standard terms document under the Land Title 26
Act forms part of the lease; or 27

(b) the lease must not be transferred without the lessor’s 28
prior written consent; or 29

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- (c) an interest under the lease, other than a mortgage of the lease, must not be created without the lessor's prior written consent. 1
2
3
- '(4) If a lease includes a condition mentioned in subsection (3)(b) or (c), the lessor must not unreasonably withhold consent to the transfer or creation of an interest under the lease. 4
5
6
- '(5) A lease may be mortgaged without the consent of the Minister or the lessor. 7
8
- '(6) Subject to subsection (5), this section does not limit the conditions that may be imposed on a lease. 9
10

'82YU Leases for private residential purposes—general conditions and requirements 11
12

- '(1) A lease granted for private residential purposes is subject to all of the following conditions— 13
14
 - (a) if the lease is granted under section 82W(1)(a)(i) or 82YL(2)(a)— 15
16
 - (i) it must be for 99 years; and 17
 - (ii) the annual rental under the lease is the amount, of not more than \$1, decided by the lessor; and 18
19
 - (iii) the consideration payable for the lease must include, as a lump sum payment, an amount equal to the value of the lease land as decided by the lessor using at least 1 of the following— 20
21
22
23
 - (A) a valuation methodology decided by the chief executive; 24
25
 - (B) the benchmark purchase price, as prescribed under a regulation, for land in the part of the State in which the lease land is situated; and 26
27
28
 - (iv) the lease land must be used primarily for private residential use; 29
30
 - (b) if a private residential premises is not situated on the lease land when the lease is granted—the lessee must 31
32

ensure a private residential premises is built on the land within 8 years after the lease is granted;	1 2
(c) an interest may be created under the lease only if the interest is a residential tenancy or a mortgage of the lease.	3 4 5
‘(2) A lessor may grant a lease under section 82W(1)(a)(i) or 82YL(2)(a) for private residential purposes only if the amount mentioned in subsection (1)(a)(iii) has been paid to the lessor.	6 7 8
‘(3) The chief executive—	9
(a) must, if requested, give a person a copy of the valuation methodology mentioned in subsection (1)(a)(iii); and	10 11
(b) may make the valuation methodology available for inspection on the department’s website.	12 13
‘82YV Leases for private residential purposes—particular requirements if dwelling situated on land	14 15
‘(1) This section applies if—	16
(a) a lessor proposes to grant a lease for private residential purposes; and	17 18
(b) a dwelling is situated on the land the subject of the proposed lease.	19 20
‘(2) The lessor must give the housing chief executive written notice of the lessor’s intention to grant the lease.	21 22
‘(3) Within 28 days after receiving the notice, the housing chief executive must give the lessor a written notice stating whether the housing chief executive considers the dwelling has been used to provide subsidised housing for residential use.	23 24 25 26
‘(4) The lessor must not grant the lease before receiving the housing chief executive’s notice under subsection (3).	27 28
‘(5) Subsections (6) to (10) apply if the notice states the housing chief executive considers the dwelling has been used to provide subsidised housing for residential use.	29 30 31

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- ‘(6) The lessor must, before the lease is granted, decide the value of the dwelling by using a valuation methodology agreed between the lessor and the housing chief executive. 1
2
3
- ‘(7) The consideration payable for the lease must include, as a lump sum payment, an amount equal to the value of the dwelling decided under subsection (6). 4
5
6
- ‘(8) The lessor may grant the lease only— 7
- (a) with the written approval of the housing chief executive; 8
and 9
- (b) if the amount mentioned in subsection (7) has been paid to the lessor. 10
11
- ‘(9) In considering whether to give an approval, the housing chief executive must have regard to whether it would be more appropriate in the circumstances for the dwelling to continue to be used to provide subsidised housing for residential use. 12
13
14
15
- ‘(10) If the lessor grants the lease, the lessor must, within 28 days after the lease is registered, give the housing chief executive— 16
17
- (a) a written notice stating— 18
- (i) the day the lease was registered; and 19
- (ii) the names of the parties to the lease; and 20
- (b) evidence showing the amount mentioned in subsection (7) for the dwelling was paid to the lessor; and 21
22
- (c) evidence showing the amount decided by the lessor under section 82YU(1)(a)(iii) for the lease land was paid to the lessor. 23
24
25
- Note—* 26
- The amount mentioned in subsection (7) must be used by the lessor as required under section 136A. 27
28
- ‘(11) This section does not limit section 82YU. 29
- ‘(12) In this section— 30
- housing chief executive*** means the chief executive of the department in which the *Housing Act 2003* is administered. 31
32

‘82YW Option to renew particular lease or sublease	1
‘(1) A lease or a sublease of a lease, other than a lease for private residential purposes, may include an option to renew the lease or sublease.	2 3 4
‘(2) The term of a renewed lease or sublease must not be more than the initial term of the lease or sublease.	5 6
‘Subdivision 3 Provisions about transfer, amendment or surrender of leases	7 8
‘82YX Transfer or amendment of lease or sublease	9
‘(1) A lease or a sublease of a lease must not be transferred or amended without—	10 11
(a) if, under a condition of the lease, the transfer or amendment of the lease or sublease requires the consent of the lessor—the lessor’s prior written consent; and	12 13 14
(b) if, under this part, the grant of the lease or sublease requires the consent of the Minister—the Minister’s prior written consent.	15 16 17
‘(2) A person seeking the Minister’s consent to the transfer or amendment of a lease or sublease must give the Minister the information or documents relevant to the proposed transfer or amendment reasonably required by the Minister.	18 19 20 21
‘(3) In considering whether to consent to the transfer of a lease or sublease, the Minister must consider whether the proposed transferee can comply with the conditions of the lease.	22 23 24
‘(4) The Minister may consent to the amendment of a lease or sublease only if the Minister is satisfied—	25 26
(a) the amendment does not significantly change the conditions of the lease or sublease; and	27 28
(b) the amended lease or sublease—	29
(i) for a standard lease—is for the benefit of persons for whom the trustee holds the land; or	30 31

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- (ii) for a townsite sublease—will not diminish the purpose of the relevant townsite lease. 1
2
- ‘(5) Before the Minister consents to the transfer of a lease for more than 30 years for a commercial purpose, the Minister must— 3
4
 - (a) obtain an independent assessment of the proposed transferee’s financial and managerial capabilities; and 5
6
 - (b) be satisfied, having regard to the independent assessment, that the proposed transferee’s financial and managerial capabilities are appropriate for complying with the conditions of the lease. 7
8
9
10
- ‘(6) The proposed transferee must pay the cost of the independent assessment. 11
12
- ‘(7) The cost is not refundable. 13
- ‘(8) A lease or sublease of a lease must not be transferred to a person who, under this Act, would not be entitled to a grant of the lease. 14
15
16

- ‘82YY Lease, sublease and particular dealings to be registered 17
18**
- ‘(1) All leases, and any sublease of a lease or transfer, amendment or surrender of a lease or sublease, must be registered. 19
20
- ‘(2) Despite the Land Title Act, section 65(2), an instrument of lease for Aboriginal land, must include a plan of survey identifying the lease land. 21
22
23
- ‘(3) Subsection (2) does not apply to a lease entered into only in relation to an area completely within a building. 24
25

‘Division 6	Forfeiture and renewal of residential leases	1 2
‘Subdivision 1	Preliminary	3
‘82YZ	Definitions for div 6	4
	‘In this division—	5
	<i>lessee</i> means—	6
	(a) for a residential lease that is a standard lease—the lessee under the lease; or	7 8
	(b) for a residential lease that is a townsite sublease—the sublessee under the sublease.	9 10
	<i>lessor</i> means—	11
	(a) for a residential lease that is a standard lease—the trustee of the lease land; or	12 13
	(b) for a residential lease that is a townsite sublease—the lessee of the townsite sublease under which the townsite sublease is created.	14 15 16
	<i>residential lease</i> means—	17
	(a) a standard lease granted under section 82X(1)(a)(i) for private residential purposes; or	18 19
	(b) a townsite sublease granted under section 82YN(2)(a) for private residential purposes.	20 21
‘82Z	Application of div 6	22
	‘This division applies to all residential leases.	23

[s 61]

‘Subdivision 2	Forfeiture	1
‘82ZA	Grounds for forfeiture	2
‘(1)	A residential lease may be forfeited only if—	3
(a)	the lessee breaches a relevant condition of the lease and fails to remedy the breach within 6 months after receiving written notice of the breach from the lessor; or	4 5 6
(b)	the lessee acquired the lease by fraud.	7
‘(2)	In this section—	8
	<i>relevant condition</i> , of a residential lease, means—	9
(a)	a condition of the lease mentioned in section 82YU(1)(b); or	10 11
(b)	another condition, if the lessor reasonably considers a breach of the condition is of a serious nature and warrants forfeiture of the lease.	12 13 14
‘82ZB	Referral to Land Court for forfeiture	15
‘(1)	Before the residential lease is forfeited, the lessor must refer the matter to the Land Court to decide whether the lease may be forfeited.	16 17 18
‘(2)	The lessor must give the lessee, and any mortgagee of the lease, at least 28 days written notice of the lessor’s intention to refer the matter to the Land Court.	19 20 21
‘(3)	The notice must state the grounds on which the lessor considers the lease may be forfeited.	22 23
‘(4)	In deciding whether the lease may be forfeited, the Land Court must have regard to—	24 25
(a)	the stated grounds; and	26
(b)	if the lease is proposed to be forfeited because of a breach of a condition of the lease—whether the court considers the breach is of a serious nature and warrants forfeiture of the lease.	27 28 29 30

‘(5) The lessor must file a copy of the notice in the Land Court when the lessor refers the matter to the court.	1 2
‘82ZC Lessor’s options if Land Court decides residential lease may be forfeited	3 4
‘If the Land Court decides the residential lease may be forfeited, the lessor may—	5 6
(a) forfeit the lease under this subdivision; or	7
(b) if the proposed forfeiture is because of a breach of a condition of the lease—decide not to forfeit the lease, but instead to allow the lease to continue subject to the lease being amended to include conditions agreed between the lessor and the lessee.	8 9 10 11 12
‘82ZD Notice and effect of forfeiture	13
‘(1) If the lessor forfeits the residential lease, the lessor must, within 60 days after receiving notice of the Land Court’s decision about forfeiture of the lease, give written notice that the lease is forfeited to—	14 15 16 17
(a) the lessee and any mortgagee of the lease; and	18
(b) the registrar of titles.	19
‘(2) On receiving the notice, the registrar must record the forfeiture of the lease in the appropriate register.	20 21
‘(3) The forfeiture of the lease takes effect on the day the registrar acts under subsection (2).	22 23
‘(4) On forfeiture of the lease—	24
(a) the lease ends; and	25
(b) the lessee is divested of any interest in the lease; and	26
(c) any person occupying the lease land must immediately vacate the land.	27 28

[s 61]

‘82ZE Extension of term of lease—referral for forfeiture	1
‘(1) This section applies to the residential lease if—	2
(a) a matter has been referred to the Land Court for forfeiture of the lease; and	3 4
(b) after the referral but before the Land Court makes its decision on the matter, the term of the lease would, but for subsection (2), end.	5 6 7
‘(2) The term of the lease is taken to continue until—	8
(a) if the lease is forfeited—notice of its forfeiture is given to the registrar of titles under this subdivision; or	9 10
(b) otherwise—the end of 60 days after the lessor receives notice of the Land Court’s decision.	11 12
‘(3) Subsection (2) applies to the lease despite the provisions of the lease and any other provision of this Act.	13 14

‘Subdivision 3 Renewal

15

‘82ZF Notice of expiry of lease	16
‘(1) This section applies if the lessee under a residential lease has not, under section 82ZG, applied for renewal of the lease at least 1 year before the term of the lease ends.	17 18 19
‘(2) The lessor must, as soon as practicable, give the lessee written notice stating—	20 21
(a) the day the term of the lease ends; and	22
(b) that the lessee may apply under this subdivision for renewal of the lease and how the lessee may apply.	23 24

‘82ZG Application to renew lease	25
‘(1) The lessee under a residential lease may apply in writing to the lessor to renew the lease.	26 27

-
- ‘(2) The application must be made not more than 2 years before the term of the lease ends. 1
2
- ‘(3) The application must— 3
- (a) state the name of the lessee; and 4
- (b) include information to identify the lease. 5
- ‘82ZH Lessor to consider and decide application 6**
- ‘The lessor must, within 6 months after an application is made under section 82ZG, consider the application and decide to renew or not to renew the residential lease. 7
8
9
- ‘82ZI Decision to renew lease 10**
- ‘(1) If the lessor decides to renew the residential lease, the lessor must give the lessee— 11
12
- (a) written notice of the decision; and 13
- (b) a copy of the renewed lease. 14
- ‘(2) The renewed lease— 15
- (a) must be for the same term as the lease it replaces (the *replaced lease*); and 16
17
- (b) has effect immediately after the replaced lease ends; and 18
- (c) is subject to all the conditions to which the replaced lease was subject immediately before it ended. 19
20
- ‘(3) No amount is payable under section 82YU(1)(a)(iii) for the renewed lease. 21
22
- ‘(4) Also, section 82YV does not apply for the renewal of the lease. 23
24
- ‘82ZJ Lessor may decide not to renew lease 25**
- ‘The lessor may decide not to renew the residential lease only if the lessor is satisfied the lease land is not being used for private residential purposes. 26
27
28

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‘82ZK Notice to lessee about decision not to renew lease	1
‘If the lessor decides not to renew the residential lease, the lessor must give the lessee a written notice stating the following—	2 3 4
(a) that the lessor has decided not to renew the lease;	5
(b) the reasons for the decision;	6
(c) that the person to whom the notice is given may appeal to the Land Court against the decision within 28 days after receiving the notice;	7 8 9
(d) how the person may appeal.	10
‘82ZL Extension of term of lease—application for renewal	11
‘(1) This section applies to the residential lease if—	12
(a) the lessee has applied to renew the lease under this subdivision; and	13 14
(b) before the lessor makes its decision on the application, the term of the lease would, but for subsection (2), end.	15 16
‘(2) The term of the lease is taken to continue until notice of the lessor’s decision is given to the lessee under this subdivision.	17 18
‘(3) Subsection (2) applies to the lease despite the provisions of the lease and any other provision of this Act.	19 20
‘Subdivision 4 General matters about forfeiture or non-renewal of residential leases	21 22
‘82ZM Right to remove improvements if residential lease forfeited or not renewed	23 24
‘(1) If the lessor forfeits or decides not to renew the residential lease, the lessor must allow the lessee to remove the lessee’s improvements on the lease land within a reasonable period decided by the lessor.	25 26 27 28

-
- ‘(2) If the improvements are not removed within the period, they
become the property of the lessor. 1
2

**‘82ZN Payment by lessor for forfeited or non-renewed
residential lease 3
4**

- ‘(1) If the lessor forfeits or decides not to renew the residential
lease, the lessor must pay to the person who was the lessee the
amount worked out under subsection (2) (the *required*
amount). 5
6
7
8
- ‘(2) The required amount is the amount equal to the combined
value of the following (the *maximum amount*) less any
amounts deducted from the maximum amount under section
82ZP— 9
10
11
12
- (a) the value of the lease land on the day the lease is
forfeited or ends; 13
14
- (b) the value of the lessee’s improvements on the land that
become the property of the lessee. 15
16
- ‘(3) The value of the lease land is the amount as decided by the
lessor using the valuation methodology mentioned in section
82YU(1)(a)(iii). 17
18
19
- ‘(4) The value of any improvements on the lease land must be
assessed as the market value of the improvements in a sale of
a lease of the same term and tenure as the forfeited or
non-renewed lease. 20
21
22
23
- ‘(5) Subject to subsections (3) and (4), the lessor must decide the
required amount. 24
25
- ‘(6) The lessor must decide the required amount as soon as
practicable after giving the person notice that the lease is
forfeited or not renewed. 26
27
28
- ‘(7) On deciding the required amount, the lessor must give the
person written notice of the decision. 29
30
- ‘(8) The notice must state— 31
- (a) the required amount; and 32

[s 61]

- (b) that the person may appeal to the Land Court against the decision within 28 days after receiving the notice; and 1
2
 - (c) how the person may appeal. 3
- ‘(9) This section is subject to section 82ZO. 4

‘82ZO Unclaimed amounts 5

‘If the lessor can not find the person entitled to receive the required amount, or the person does not collect the amount from the lessor within 9 years after the day the lease is forfeited or not renewed, the required amount is forfeited to the lessor. 6
7
8
9
10

**‘82ZP Amounts owing to lessor or mortgagee to be deducted 11
12**

‘If the lessor forfeits or decides not to renew the lease, the lessor may deduct the following amounts from the maximum amount— 13
14
15

- (a) an amount in payment of all costs properly incurred by the lessor in forfeiting or not renewing the lease; 16
17
- (b) an amount in payment of expenses incurred by the lessor to rectify damage caused to the lease land by the person who was the lessee; 18
19
20
- (c) any amount owing to the lessor by the person under the lease; 21
22
- (d) any amount owing to a mortgagee of the lease by the person under a mortgage of the lease. 23
24

**‘82ZQ Payment of amount to mortgagee in discharge of mortgage 25
26**

- ‘(1) This section applies if the lessor forfeits or decides not to renew the lease and, under a mortgage of the lease, an amount is owing to a mortgagee of the lease by the person who was the lessee. 27
28
29
30

-
- ‘(2) The lessor must pay to the mortgagee— 1
- (a) if the amount that may be deducted from the maximum 2
amount under section 82ZP(d) is less than the difference 3
between the maximum amount and the amounts 4
deducted under section 82ZP(a), (b) or (c)—the amount 5
that may be deducted from the maximum amount under 6
section 82ZP(d); or 7
- (b) otherwise—the amount equal to the difference between 8
the maximum amount and the amounts deducted under 9
section 82ZP(a), (b) or (c). 10
- ‘(3) The lessor must pay the amount payable under subsection (2) 11
to the mortgagee— 12
- (a) if no appeal is made to the Land Court about the 13
required amount payable to the person who was the 14
lessee—within 28 days after the time for making an 15
appeal ends; or 16
- (b) if an appeal is made to the Land Court about the 17
required amount—within 28 days after the appeal is 18
finally decided. 19
- ‘(4) If the lessor pays an amount to the mortgagee in relation to a 20
mortgage of the lease, the mortgagee must use the amount in 21
discharge of the mortgage. 22

‘Division 7 Miscellaneous 23

‘82ZR Effect of option to renew or extend on calculation of 24 term of leases 25

- ‘(1) This section applies to a lease granted for an initial term of— 26
- (a) not more than 10 years; or 27
- (b) at least 10 years but not more than 30 years. 28
- ‘(2) For the purposes of section 82B and this part, the lease is 29
taken to be a lease for more than 10 years or more than 30 30
years if the lease includes an option to renew or extend the 31

[s 61]

lease that, if exercised, would extend the term of the lease for more than 10 years or more than 30 years.	1 2
‘(3) In this section—	3
<i>lease</i> means a standard lease or a townsite sublease.	4
‘82ZS Exemption from fees and charges	5
‘(1) This section applies to an instrument of lease for a residential lease.	6 7
‘(2) No fee or charge is payable for—	8
(a) the lodgement and registration of the instrument in the land registry; or	9 10
(b) the provision by the registrar of titles of other services for the lodgement and registration of the instrument.	11 12
‘82ZT Leases for private residential purposes—beneficiary	13
‘(1) A person who is beneficially entitled under a will to a residential lease may ask the lessor—	14 15
(a) to give the person a written notice stating whether or not the person is entitled to a grant of the lease under this Act; and	16 17 18
(b) if, under a condition of the lease, the lease can not be transferred without the lessor’s written consent—for written notice of the lessor’s consent to the transfer of the lease.	19 20 21 22
<i>Note—</i>	23
Under section 82YT, the lease may include a condition that it must not be transferred without the lessor’s prior written consent.	24 25 26
‘(2) The lessor must comply with a request under subsection (1) as soon as practicable after receiving the request.’.	27 28

Clause 62	Amendment of s 83F (Entering into indigenous management agreement)	1 2
	(1) Section 83F(1)(a), ‘a land trust or registered native title body corporate hold’—	3 4
	<i>omit, insert—</i>	5
	‘an entity holds’.	6
	(2) Section 83F(1)(b) and (2), ‘land trust or registered native title body corporate’—	7 8
	<i>omit, insert—</i>	9
	‘entity’.	10
Clause 63	Amendment of s 83G (Requirements for indigenous management agreement)	11 12
	Section 83G(1)(f), ‘grantees of the land’—	13
	<i>omit, insert—</i>	14
	‘trustee’.	15
Clause 64	Amendment of s 83I (Recording of indigenous management agreement)	16 17
	Section 83I(6)(a)—	18
	<i>omit, insert—</i>	19
	‘(a) each entity that is from time to time the trustee for the land, whether or not the entity entered into the agreement or agreed to any amendment of the agreement; and’.	20 21 22 23
Clause 65	Amendment of s 83N (Decision making by trustee)	24
	(1) Section 83N, heading, ‘Decision making’—	25
	<i>omit, insert—</i>	26
	‘ Decision-making ’.	27
	(2) Section 83N(2)—	28

[s 66]

omit, insert— 1

‘(2) The trustee must— 2

(a) have regard to— 3

(i) if the Aboriginal people for whom the trustee holds
the land have agreed on a decision-making process
for decisions of that kind—the process; or 4
5
6

(ii) if subparagraph (i) does not apply—any Aboriginal
tradition, for decisions of that kind, of the
Aboriginal people for whom the trustee holds the
land; or 7
8
9
10

(b) if there is no decision-making process mentioned in
paragraph (a)(i) or relevant Aboriginal tradition—make
the decision under a process of decision-making agreed
to and adopted by the trustee for the decision or for
decisions of that kind.’. 11
12
13
14
15

**Clause 66 Replacement of pt 5E (Provisions about mortgages of
leases over Aboriginal land) 16
17**

Part 5E— 18

omit, insert— 19

**‘Part 5E Provisions about mortgages of
leases over Aboriginal land 20
21**

‘Division 1 Preliminary 22

‘830A Definitions for pt 5E 23

‘In this part— 24

lease means— 25

(a) a standard lease; or 26

(b) a townsite sublease. 27

lessor means— 28

(a)	for a standard lease—the trustee of the lease land; or	1
(b)	for a townsite sublease—the lessee of the townsite lease under which the townsite sublease is granted.	2 3
‘83O	Application of pt 5E	4
	‘If, in relation to the mortgaging of a lease over Aboriginal land, there is an inconsistency between a provision of this part and the Land Title Act, part 6, division 3, or the <i>Property Law Act 1974</i> , the provision of this part prevails to the extent of the inconsistency.	5 6 7 8 9
‘Division 2	Mortgages of leases over Aboriginal land	10 11
‘83P	Provisions about entering into possession, and selling, lease	12 13
‘(1)	This section applies if a mortgagee enters into possession of a lease granted over Aboriginal land.	14 15
‘(2)	The mortgagee must give the lessor for the lease written notice of the fact within 28 days after entering into possession.	16 17 18
‘(3)	The mortgagee must arrange to sell the lease within—	19
(a)	4 years after entering into possession of the lease; or	20
(b)	the longer period agreed in writing between the mortgagee and lessor.	21 22
‘(4)	For subsection (3)(b)—	23
(a)	the period mentioned in subsection (3)(a) may be extended or further extended for not more than 2 years at a time; and	24 25 26
(b)	an extension or further extension of the period must be agreed in writing before the period or further extended period would otherwise have ended.	27 28 29

[s 66]

- ‘(5) In considering whether to agree to an extension or further extension, the lessor must have regard to the measures the mortgagee has already taken to sell the lease. 1
2
3
- ‘(6) If the mortgagee does not sell the lease within the period mentioned in subsection (3), the lessor may sell the lease. 4
5
- ‘(7) The mortgagee or lessor may sell the lease only to a person who, under this Act, would be entitled to a grant of the lease. 6
7
- ‘(8) The lessor must not sell the lease for less than— 8
- (a) the amount owing to the mortgagee by the lessee under the mortgage on the day the lease is sold; or 9
10
- (b) if the lessor and the mortgagee agree the lease may be sold for an amount less than the amount mentioned in paragraph (a)—the agreed amount. 11
12
13
- ‘(9) In this section— 14
- lessee* means— 15
- (a) for a standard lease—the lessee under the lease; or 16
- (b) for a townsite sublease—the sublessee under the sublease. 17
18
- ‘83Q How lessor deals with proceeds of sale 19**
- ‘(1) This section applies if, under section 83P, a lessor sells a mortgaged lease. 20
21
- ‘(2) The lessor must apply the proceeds of the sale, under the *Property Law Act 1974*, as if the lease were sold by the mortgagee and the amount of the sale were received by the mortgagee. 22
23
24
25
- ‘(3) However, in applying the proceeds of the sale, the lessor must firstly apply the proceeds to the payment of all costs, charges and expenses properly incurred by the lessor for the sale or any attempted sale.’. 26
27
28
29

Clause 67	Amendment of s 83R (Definitions for pt 5F)	1
(1)	Section 83R, definition <i>Aboriginal trust land</i> , paragraph (d), 'reserve for'—	2
	<i>omit, insert—</i>	3
	'reserve for Aboriginal purposes or'.	4
(2)	Section 83R, definition <i>trustee (Aboriginal) lease</i> , from 'under'—	5
	<i>omit, insert—</i>	6
	'under—	7
(a)	part 5AB as applied under section 83T(2); or	8
(b)	the Land Act, section 57 before the commencement of this part.'	9
		10
		11
		12
Clause 68	Amendment of s 83T (Trustee (Aboriginal) leases)	13
(1)	Section 83T(1) and (5), 'part 3, division 2, subdivision 3'—	14
	<i>omit, insert—</i>	15
	'part 5AB'.	16
(2)	Section 83T(2)(a), 'transferred land'—	17
	<i>omit, insert—</i>	18
	'Aboriginal land'.	19
(3)	Section 83T(2)(c), 'section 40F(4)(a) to section 40(1)(a)'—	20
	<i>omit, insert—</i>	21
	'section 82YB(4)(a) to section 82B(1)(a)'.	22
(4)	Section 83T(2)(d), 'section 40H(3)(a)'—	23
	<i>omit, insert—</i>	24
	'section 82YT(3)(a)'.	25
(5)	Section 83T(2)(e)—	26
	<i>omit.</i>	27
(6)	Section 83T(7), definition <i>relevant provisions</i> —	28

[s 69]

omit, insert— 1
‘relevant provisions means section 82C and part 5AB,
divisions 1 to 6.’. 2
3

Clause 69 Amendment of s 83U (Amending trustee (Aboriginal lease)) 4
5
Section 83U(2), definition *term*, paragraph (a)— 6
omit, insert— 7
‘(a) the renewal of the lease; or’. 8

Clause 70 Insertion of new pt 5G 9
After section 83Y— 10
insert— 11

‘Part 5G Special provisions about prescribed DOGIT land and prescribed reserve land 12
13
14

‘Division 1 Prescribed DOGIT land 15

‘83Z Application of div 1 16
‘This division applies to prescribed DOGIT land. 17

‘83ZA Prescribed DOGIT land may be granted under this Act 18
19
‘(1) Despite any other provision of this Act, prescribed DOGIT
land may be— 20
21
(a) granted under part 3; and 22
(b) held by a trustee for the benefit of Aboriginal people and
Torres Strait Islanders particularly concerned with the
land, and their ancestors and descendants. 23
24
25

-
- ‘(2) If the land is held as mentioned in subsection (1)(b), the land 1
may, for any dealing with the land under this Act or another 2
Act, be called Aboriginal and Torres Strait Islander land. 3

‘83ZB Minister to consult before grant of land 4

- ‘Before the land is granted under part 3, the Minister must— 5
- (a) consult with Aboriginal people and Torres Strait 6
Islanders particularly concerned with the land— 7
- (i) to identify how the continued use of, and access to, 8
the land by the Aboriginal people and Torres Strait 9
Islanders can be achieved; and 10
- (ii) about how the Aboriginal people and Torres Strait 11
Islanders want the land to be held under this Act; 12
and 13
- (b) consider the views of the Aboriginal people and Torres 14
Strait Islanders mentioned in paragraph (a). 15

‘83ZC Application of general provisions 16

- ‘(1) The following provisions apply in relation to the land as if a 17
reference in the provisions to Aboriginal people includes a 18
reference to Torres Strait Islanders— 19
- (a) section 87(6) and (7); 20
- (b) section 131(2). 21
- ‘(2) However, subsection (1)(a) applies for prescribed DOGIT 22
land that is transferred land only if the land is held for the 23
benefit of Aboriginal people and Torres Strait Islanders 24
particularly concerned with the land, and their ancestors and 25
descendants. 26

‘83ZD Application of provisions for grant of land 27

- ‘(1) This section applies if the land is to be or is— 28
- (a) granted under part 3; and 29

[s 70]

- (b) held for the benefit of Aboriginal people and Torres Strait Islanders particularly concerned with the land, and their ancestors and descendants. 1
2
3
- ‘(2) The following provisions apply in relation to the land as if a reference in the provisions to Aboriginal people includes a reference to Torres Strait Islanders— 4
5
6
 - (a) sections 27A and 28; 7
 - (b) section 29; 8
 - (c) section 82B; 9
 - (d) section 82H; 10
 - (e) section 82M; 11
 - (f) section 82YB; 12
 - (g) section 82YF; 13
 - (h) sections 83M and 83N; 14
 - (i) section 86; 15
 - (j) section 88; 16
 - (k) section 132; 17
 - (l) section 136A. 18
- ‘(3) The schedule, definition *qualified*, applies in relation to the land as follows— 19
20
 - qualified***, for a CATSI corporation that holds, or proposes to hold, Aboriginal land under this Act that is prescribed DOGIT land, means— 21
22
23
 - (a) membership of the CATSI corporation is restricted to— 24
 - (i) Aboriginal people particularly concerned with the land; or 25
26
 - (ii) Aboriginal people and Torres Strait Islanders particularly concerned with the land; or 27
28
 - (b) the CATSI corporation is a trustee of a trust the beneficiaries of which are restricted to— 29
30

(i)	Aboriginal people particularly concerned with the land; or	1 2
(ii)	Aboriginal people and Torres Strait Islanders particularly concerned with the land.	3 4
‘(4)	Section 28A applies in relation to the land as if a reference in the section to an Aboriginal person includes a reference to a Torres Strait Islander.	5 6 7
‘(5)	The following provisions apply in relation to the land as if a reference in the provisions to an Aborigine includes a reference to a Torres Strait Islander—	8 9 10
(a)	sections 82E and 82F;	11
(b)	section 82W;	12
(c)	section 82YT.	13
‘(6)	Sections 83M and 83N apply in relation to the land as if a reference in the sections to Aboriginal tradition included a reference to Island custom.	14 15 16
‘(7)	In this section—	17
	<i>Island custom</i> see the <i>Torres Strait Islander Land Act 1991</i> , section 8.	18 19
‘ Division 2	Prescribed reserve land	20
‘ 83ZE	Meaning of <i>prescribed reserve land</i>	21
	<i>‘Prescribed reserve land</i> means any of the following land that is situated on Thursday Island and prescribed under a regulation for this section—	22 23 24
(a)	land reserved and set apart under the repealed <i>Land Act 1962</i> for an Aboriginal reserve or for the benefit of Aboriginal inhabitants;	25 26 27
(b)	land dedicated under the Land Act as a reserve for Aboriginal purposes or the provision of services	28 29

[s 71]

	beneficial to Aboriginal people particularly concerned with the land.	1 2
'83ZF	Application of particular provisions	3
	‘Sections 82W and 82YT apply in relation to prescribed reserve land as if a reference in the provisions to an Aborigine includes a reference to a Torres Strait Islander.’	4 5 6
Clause 71	Amendment of s 84 (Use of Aboriginal land preserved)	7
	Section 84(3)—	8
	<i>omit, insert—</i>	9
	‘(3) If the chief executive becomes aware the occupation or use of land under subsection (1) is no longer required by the State or Commonwealth, the chief executive must give the trustee written notice of that fact.	10 11 12 13
	‘(4) Despite subsection (1), if the State or Commonwealth intends to continue to occupy or use the land, the State or Commonwealth and the trustee of the land are to use their best endeavours to provide for the continued occupation and use of the land under an interest in, or in relation to, the land given by the trustee of the land.	14 15 16 17 18 19
	‘(5) Subsection (1) ceases to apply to land if—	20
	(a) it is leased to a person for a private residential purpose under part 5AB; or	21 22
	(b) the State or Commonwealth has a right to occupy or use the land under an interest in, or in relation to, the land given by the trustee of the land; or	23 24 25
	(c) the trustee of the land receives a notice under subsection (3) for the land.	26 27
	‘(6) Subsection (7) applies if the Aboriginal land being occupied or used by the State or the Commonwealth is land that is the subject of a townsite lease.	28 29 30

‘(7) Subsections (3) to (5) apply as if a reference to the trustee of the land were a reference to the lessee for the townsite lease.’. 1
2

Clause 72 Amendment of s 85 (No rent payable) 3

Section 85, ‘section 84’— 4

omit, insert— 5

‘section 84(1)’. 6

Clause 73 Amendment of s 86 (Access to land) 7

(1) Section 86(1), ‘section 84’— 8

omit, insert— 9

‘section 84(1)’. 10

(2) Section 86(2)(b), ‘grantees’— 11

omit, insert— 12

‘trustee’. 13

(3) Section 86(3)(b), ‘those’— 14

omit, insert— 15

‘the’. 16

(4) Section 86— 17

insert— 18

‘(5) If the Aboriginal land being occupied or used by the State or the Commonwealth under section 84(1) is land that is the subject of a townsite lease— 19
20
21

(a) subsection (2) applies as if a reference to the trustee of the land were a reference to the lessee for the townsite lease; and 22
23
24

(b) subsection (3) does not apply.’. 25

[s 74]

Clause 74	Amendment of s 87 (Application of Mineral Resources Act)	1 2
(1)	Section 87(2)(b), ‘to the land claims registrar’— <i>omit, insert—</i> ‘under this Act’.	3 4 5
(2)	Section 87(2)(b)(i)— <i>omit.</i>	6 7
(3)	Section 87(2)(b)(ii) and (iii)— <i>renumber</i> as section 87(2)(b)(i) and (ii).	8 9
(4)	Section 87(3), from ‘that was claimable land’ to ‘lease; or’— <i>omit, insert—</i> ‘that— (a) was claimable land; and’.	10 11 12 13
(5)	Section 87(4), ‘to the lands claims registrar’— <i>omit, insert—</i> ‘under this Act’.	14 15 16
Clause 75	Amendment of s 88 (Royalties in relation to mining on Aboriginal land)	17 18
(1)	Section 88(1), from ‘(other than’ to ‘lease)’— <i>omit.</i>	19 20
(2)	Section 88(2), ‘royalty amount and’— <i>omit, insert—</i> ‘total royalty amount received in a financial year and’.	21 22 23
Clause 76	Amendment of s 109 (Conferences)	24
(1)	Section 109(1), after ‘member’— <i>insert—</i>	25 26

‘if the chairperson considers the holding of the conference
may help to resolve the claim’. 1
2

(2) Section 109— 3

insert— 4

‘(1A) A party to a proceeding to which the conference relates may
be represented at the conference by a person who, under this
Act, may represent the party at the hearing of the proceeding.’. 5
6
7

Clause 77 Amendment of s 116 (Reasons to be given by tribunal) 8

(1) Section 116(3) and (4)— 9

renumber as section 116(4) and (5). 10

(2) Section 116— 11

insert— 12

‘(3) Subsection (2) does not apply if the tribunal’s
recommendations to the Minister are made without holding a
hearing.’. 13
14
15

Clause 78 Insertion of new pts 8A–8C 16

After section 130— 17

insert— 18

‘Part 8A Provisions about land trusts 19

‘Division 1 Preliminary 20

‘130AA Composition of land trust 21

‘A land trust for an area of Aboriginal land consists of all the
members for the time being of the land trust. 22
23

‘130AB Nature of land trust 24

‘(1) A land trust— 25

[s 78]

- (a) is a body corporate with perpetual succession; and 1
 - (b) has a seal; and 2
 - (c) may sue and be sued in its corporate name. 3
- ‘(2) A land trust has all the powers of an individual and may, for 4
example— 5
- (a) acquire, hold and dispose of property; and 6
 - (b) borrow, receive and spend money; and 7
 - (c) employ staff, and engage consultants, necessary for the 8
performance of its function. 9
- ‘(3) The land trust’s seal— 10
- (a) is effective only if the land trust’s name is inscribed on 11
the seal in legible characters, but the seal may include 12
other words; and 13
 - (b) is to be kept by a person who is authorised by the land 14
trust for that purpose; and 15
 - (c) may be attached to a document only with the written 16
authority signed by— 17
 - (i) if the land trust consists of 1 member—the 18
member; or 19
 - (ii) if the land trust consists of no more than 3 20
members—the chairperson of the land trust and at 21
least 1 other member; or 22
 - (iii) in any other case— 23
 - (A) the chairperson and at least 2 other members; 24
or 25
 - (B) at least 3 members. 26
- ‘(4) Judicial notice must be taken of the seal on a document. 27
- ‘(5) A document marked with the seal must be presumed to have 28
been properly sealed, unless the contrary is proved. 29

‘130AC Function and powers of land trust	1
‘(1) The function of a land trust is to provide a legal entity by which the members of the land trust may perform functions under this Act.	2 3 4
‘(2) A land trust may exercise all powers necessary or convenient to perform its function.	5 6
<i>Note—</i>	7
Also see section 130I.	8
‘Division 2 Minister’s power to appoint, remove or suspend members of land trusts	9 10
‘Subdivision 1 Appointment of members	11
‘130AD Minister may appoint member	12
‘(1) The Minister may, by written notice given to a land trust, appoint a person to be a member of the land trust if—	13 14
(a) the rules of the land trust do not provide for the appointment of members; or	15 16
(b) because of any circumstances affecting the operation of the land trust, the land trust can not appoint a member and a majority of members of the land trust have asked the Minister in writing to appoint the person as a member; or	17 18 19 20 21
<i>Example of circumstances affecting the operation of a land trust—</i>	22
A land trust can not form a quorum for a meeting of the land trust to appoint a member.	23 24
(c) the Minister considers it appropriate to appoint the member to ensure the land trust can carry out its functions under this Act.	25 26 27
<i>Example—</i>	28
The Minister might appoint a member to replace a member removed by the Minister under this division.	29 30

[s 78]

- '(2) Before acting under subsection (1), the Minister must— 1
 - (a) consult with the land trust; and 2
 - (b) if the Minister considers it appropriate in the 3
circumstances—consult with, and consider the views of, 4
Aboriginal people particularly concerned with the 5
Aboriginal land held by the land trust. 6
- '(3) The Minister must not appoint a person under subsection (1) 7
without the person's consent. 8
- '(4) The Minister must give the person a copy of the notice 9
mentioned in subsection (1) when the notice is given to the 10
land trust. 11
- '(5) A person appointed as a member of a land trust under this 12
section becomes a member on the day stated in the notice. 13
- '(6) In acting under this section, the Minister must have regard to 14
any Aboriginal tradition applicable to the Aboriginal land 15
held by the land trust. 16

'Subdivision 2 Removal or suspension of members 17

'130AE Grounds for removal or suspension of member 18

- 'Each of the following is a ground for removing or suspending 19
a member— 20
- (a) if the member is a member of the executive committee 21
of the land trust, the member— 22
 - (i) in performing the member's functions as a member 23
of the committee, has contravened or is 24
contravening a provision of this Act; or 25
 - (ii) is carrying on, or has carried on, the business of the 26
land trust in a fraudulent or improper way; 27
 - (b) the member has stolen, misappropriated or improperly 28
applied trust property; 29

-
- (c) the member is acting, or has acted, towards the land trust or another member in a fraudulent or improper way; 1
2
- (d) if the rules of the land trust do not provide for the removal or suspension of members— 3
4
- (i) the land trust has asked the Minister in writing to remove or suspend the member; and 5
6
- (ii) a ground mentioned in paragraph (a), (b) or (c) exists in relation to the member; 7
8
- (e) because of any circumstances affecting the operation of the land trust— 9
10
- (i) the land trust can not remove or suspend a member and a majority of members of the land trust have asked the Minister in writing to remove or suspend the member; and 11
12
13
14
- (ii) a ground mentioned in paragraph (a), (b) or (c) exists in relation to the member. 15
16
- Example of circumstances affecting the operation of a land trust—* 17
- A land trust can not form a quorum for a meeting of the land trust to remove or suspend a member. 18
19

‘130AF Show cause notice 20

- ‘(1) This section applies if the Minister believes a ground exists to remove or suspend a member of a land trust. 21
22
- ‘(2) The Minister must give the member and the land trust a notice (a *show cause notice*). 23
24
- ‘(3) The show cause notice must state the following— 25
- (a) the action the Minister proposes to take under this subdivision (the *proposed action*); 26
27
- (b) the ground for the proposed action; 28
- (c) an outline of the facts and circumstances forming the basis for the ground; 29
30
- (d) if the proposed action is suspension of the member—the proposed suspension period; 31
32

[s 78]

- (e) that the member and the land trust may, within a stated period (the *show cause period*), make written representations to the Minister to show why the proposed action should not be taken. 1
2
3
4
- ‘(4) The show cause period must end at least 1 month after the show cause notice is given. 5
6
- ‘130AG Representations about show cause notice 7**
- ‘(1) The member or land trust may make written representations to the Minister about the show cause notice during the show cause period. 8
9
10
- ‘(2) The Minister must consider all representations (the *accepted representations*) made under subsection (1). 11
12
- ‘130AH Ending show cause process without further action 13**
- ‘If, after considering the accepted representations for the show cause notice, the Minister no longer believes a ground exists to remove or suspend the member, the Minister must— 14
15
16
- (a) take no further action about the show cause notice; and 17
- (b) give the member and the land trust a notice that no further action is to be taken about the show cause notice. 18
19
- ‘130AI Removing or suspending member 20**
- ‘(1) This section applies if— 21
- (a) there are no accepted representations about the show cause notice; or 22
23
- (b) after considering the accepted representations about the show cause notice, the Minister— 24
25
- (i) still believes a ground exists to remove or suspend the member; and 26
27
- (ii) believes removal or suspension of the member is warranted. 28
29

-
- ‘(2) The Minister may— 1
- (a) if the proposed action was to remove the member—remove the member; or 2
3
 - (b) if the proposed action was to suspend the member—suspend the member for not longer than the proposed suspension period. 4
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6
- ‘(3) Before acting under subsection (2), the Minister must, if the Minister considers it appropriate in the circumstances, consult with and consider the views of Aboriginal people particularly concerned with the Aboriginal land held by the land trust. 7
8
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10
- ‘(4) In acting under this section, the Minister must have regard to any Aboriginal tradition applicable to the Aboriginal land held by the land trust. 11
12
13
- ‘(5) If the Minister decides to take action under subsection (2), the Minister must as soon as practicable give— 14
15
- (a) the person an information notice for the decision; and 16
 - (b) the land trust written notice of the decision. 17
- ‘(6) The decision takes effect on the later of the following— 18
- (a) the day the information notice is given to the person; 19
 - (b) the day stated in the information notice for that purpose. 20
- ‘(7) In this section— 21
- information notice**, for a decision of the Minister, means a notice stating all of the following— 22
23
- (a) the decision; 24
 - (b) the reasons for the decision; 25
 - (c) that the person to whom the notice is given may appeal to the Land Court against the decision within 28 days after receiving the notice; 26
27
28
 - (d) how the person may appeal. 29

[s 78]

‘130AJ Immediate removal or suspension of member	1
‘(1) The Minister may remove or suspend a member immediately if the Minister believes—	2 3
(a) a ground exists for removing or suspending the member; and	4 5
(b) it is necessary to remove or suspend the member immediately because there is an immediate and serious risk to the proper operation of the land trust or proper dealing with trust property.	6 7 8 9
‘(2) The removal or suspension under this section—	10
(a) can be effected only by the Minister—	11
(i) giving an information notice to the member about the decision to remove or suspend the member, together with a show cause notice; and	12 13 14
(ii) giving notice of the removal or suspension to the land trust when the notices under subparagraph (i) are given to the member; and	15 16 17
(b) operates immediately the notices are given to the member; and	18 19
(c) continues to operate until the earlier of the following happens—	20 21
(i) the show cause notice is finally dealt with;	22
(ii) 60 days have passed since the notices were given to the member.	23 24
‘Subdivision 3 Other matters	25
‘130AK Limitation on land trust’s power about appointment or suspension of member	26 27
‘(1) This section applies to a land trust that, under its rules, may appoint, remove or suspend members of the land trust.	28 29
‘(2) The land trust can not—	30

(a)	appoint a person as a member of the land trust if the person has been removed as a member by the Minister under this division; or	1 2 3
(b)	end the suspension of a person from membership of the land trust if the suspension is imposed by the Minister under this division.	4 5 6
‘Division 3	Recording information about compliance with Act	7 8
‘130AL Particular information to be recorded in register		9
‘(1)	The chief executive must, for each land trust and each financial year, record in the Aboriginal land holding entity register whether or not the land trust has, for the financial year, operated in compliance with the Act.	10 11 12 13
‘(2)	In deciding whether or not a land trust has operated in compliance with the Act, the chief executive must have regard to any minimum requirements, prescribed under a regulation, that a land trust must meet to be compliant.	14 15 16 17
‘Division 4	Land trusts to give information to chief executive	18 19
‘130A Definition for div 4		20
‘In this division—		21
<i>information</i>	includes a document.	22
‘130B Power to require particular information		23
‘(1)	The chief executive may, by written notice, require a land trust to give the chief executive stated information, or stated types of information, in its possession or control that is, or are, relevant to the operation of the land trust or the conduct of its business.	24 25 26 27 28

[s 78]

<i>Examples of information—</i>	1
• information about how a land trust made a particular decision	2
• accounts, bank statements and other financial information	3
• minutes of meetings	4
‘(2) The notice must state a reasonable period to comply with the requirement.	5 6
‘(3) The land trust must comply with the requirement unless complying with the notice would place the land trust in contravention of a law.	7 8 9
‘Division 5 Freezing accounts of land trusts	10
‘130C Definitions for div 5	11
‘In this division—	12
<i>account</i> , of a land trust, means—	13
(a) an account, with a financial institution, in the land trust’s name or in which the land trust has an interest; or	14 15
(b) another account to which trust money is deposited.	16
<i>holder</i> , of a land trust’s account, means the land trust or other person authorised to operate the account.	17 18
<i>trust money</i> means any amount that is trust property.	19
‘130D Freezing land trust’s accounts	20
‘(1) The chief executive may give a direction under subsection (2) if, on considering a report on an audit of a land trust’s accounts, it appears to the chief executive that—	21 22 23
(a) the land trust, a member of the land trust or another person has, or may have, stolen, misappropriated or misapplied trust money; or	24 25 26
(b) the accounts of the land trust are not being kept appropriately.	27 28

-
- ‘(2) The chief executive may direct, by a written notice, that— 1
- (a) an amount must not be drawn from a stated account 2
other than with the chief executive’s approval; or 3
 - (b) a stated account may be operated only under stated 4
conditions. 5
- ‘(3) The direction must— 6
- (a) be given to the holder of the account and the financial 7
institution where the account is kept; and 8
 - (b) state the account to which it relates; and 9
 - (c) if it includes a direction under subsection (2)(b), state 10
the conditions under which the account may be 11
operated. 12
- ‘130E Financial institution must comply with direction 13**
- ‘(1) After the direction is given to a financial institution, and until 14
it is withdrawn, the financial institution must not— 15
- (a) pay a cheque or other instrument drawn on the account 16
stated in the direction unless the cheque or instrument is 17
also signed by the chief executive; or 18
 - (b) give effect to another transaction on the account that is 19
not authorised because of the direction. 20
- Maximum penalty—100 penalty units. 21
- ‘(2) For section 130D(2)(a), the chief executive’s signature on the 22
cheque or instrument is sufficient evidence of the chief 23
executive’s approval to draw an amount from the account to 24
honour the cheque or instrument. 25
- ‘130F Withdrawal of direction 26**
- ‘(1) The chief executive may withdraw a direction given under 27
section 130D at any time. 28
- ‘(2) If the direction is withdrawn, the chief executive must 29
immediately give all persons who were given the direction a 30

[s 78]

written notice, signed by the chief executive, that the direction has been withdrawn.	1 2
‘(3) A direction stops having effect when it is withdrawn.	3
‘Division 6 Miscellaneous	4
‘130G Chief executive may prepare model rules	5
‘(1) The chief executive may prepare model rules for land trusts.	6
‘(2) In adopting changes to its rules, or adopting new rules, a land trust must have regard to the model rules prepared under subsection (1).	7 8 9
‘(3) If the chief executive prepares model rules under subsection (1), the chief executive must give a copy of the model rules to each land trust.	10 11 12
‘130H Provision about vesting of Aboriginal land	13
‘(1) If Aboriginal land is held by a land trust, the land is taken to have been vested in the land trust.	14 15
‘(2) Subsection (1) applies to Aboriginal land whether or not the land was first held by the land trust before the commencement of this section.	16 17 18

‘Part 8B	Application of Trusts Act 1973	1
‘Division 1	Preliminary	2
‘130I	Application of Trusts Act 1973	3
‘(1)	The <i>Trusts Act 1973</i> applies to a land trust and its members in relation to dealings with Aboriginal land only to the extent prescribed under this part.	4 5 6
‘(2)	To the extent that the <i>Trusts Act 1973</i> does apply to a land trust and its members in relation to dealings with Aboriginal land, it applies with the changes prescribed under this part.	7 8 9
‘(3)	To remove any doubt, it is declared that the <i>Trusts Act 1973</i> applies, without changes, to a land trust and its members in relation to dealings with trust property that is not Aboriginal land.	10 11 12 13
‘130J	Functions and powers of land trust under Trusts Act 1973	14 15
‘(1)	A land trust may perform all the functions and exercise all the powers of a trustee under the <i>Trusts Act 1973</i> .	16 17
‘(2)	Subsection (1)—	18
(a)	applies subject to any other provision of this Act; and	19
(b)	does not limit section 130AC(2).	20
‘Division 2	Powers of Supreme Court	21
‘130K	Jurisdiction of Supreme Court	22
‘(1)	Subject to subsection (2), the jurisdiction of the Supreme Court under the <i>Trusts Act 1973</i> includes matters arising under this Act.	23 24 25

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- ‘(2) The powers of the Supreme Court under the *Trusts Act 1973* are to be exercised— 1
2
- (a) if provision is made in this part for a matter—in accordance with this part; or 3
4
- (b) otherwise—in a way that is consistent with, and best achieves, the purposes of this Act. 5
6
- ‘130L Power of court to relieve member of land trust from personal liability 7
8**
- ‘(1) This section applies if it appears to the Supreme Court that a member of a land trust is or may be personally liable for a breach of trust by the member, another member or the land trust. 9
10
11
12
- ‘(2) If it appears to the court that the member— 13
- (a) has acted honestly and reasonably; and 14
- (b) ought fairly to be excused for the breach of trust or for omitting to obtain the directions of the court in the matter in which the member, the other member or the land trust committed the breach; 15
16
17
18
- the court may relieve the member wholly or partly from personal liability for the breach. 19
20
- ‘130M Court may order beneficiary to indemnify for certain breaches 21
22**
- ‘(1) This section applies if a land trust or a member of a land trust commits a breach of trust at the instigation or request of, or with the written consent of, a beneficiary. 23
24
25
- ‘(2) The Supreme Court may, as it considers just, order that all or part of the interest of the beneficiary in the trust property is impounded to indemnify the land trust, the member or persons claiming through the land trust or member. 26
27
28
29

‘130N Right of land trust or member to apply to court for directions	1 2
‘(1) A land trust or member of a land trust may apply to the Supreme Court for directions in relation to—	3 4
(a) the trust property of the land trust or its management or administration; or	5 6
(b) the exercise of a power of the land trust or a member of the land trust.	7 8
‘(2) The application must be served on, and the hearing of the application may be attended by—	9 10
(a) all persons interested in the application; or	11
(b) the persons interested in the application, or their representatives, that the court considers appropriate.	12 13
‘130O Court’s jurisdiction to make orders conferring power on land trust or members	14 15
‘(1) This section applies if, in the Supreme Court’s opinion, a disposition or transaction—	16 17
(a) is expedient for the management or administration of trust property by a land trust or members of a land trust; or	18 19 20
(b) would be in the best interest of the Aboriginal people, or a majority of the Aboriginal people, for whose benefit the property is held;	21 22 23
but—	24
(c) it is inexpedient, difficult or impractical to effect the disposition or transaction without the assistance of the Supreme Court; or	25 26 27
(d) the land trust or members do not have power under the Act to effect the disposition or transaction.	28 29
‘(2) The Supreme Court may—	30
(a) confer on the land trust or members the necessary power for the purpose of effecting the disposition or	31 32

[s 78]

transaction (other than a power to sell or mortgage Aboriginal land), on such terms and subject to any conditions, as the court considers appropriate; and	1 2 3
(b) direct the way that—	4
(i) any amount authorised to be spent, and the costs of the disposition or transaction, are to be paid or borne from trust property; and	5 6 7
(ii) the amount is to be apportioned between the capital and income of the trust property.	8 9
‘(3) The Supreme Court may—	10
(a) rescind or vary an order under this section; or	11
(b) make a new or further order.	12
‘(4) The rescision or variation of an order does not affect anything done by a person relying on the order before the person became aware of the application to the court to rescind or vary the order.	13 14 15 16
‘(5) An application to the court under this section may be made by—	17 18
(a) a land trust; or	19
(b) a member of a land trust; or	20
(c) a person for whose benefit the trust property is held.	21
‘(6) In this section—	22
<i>disposition</i> means a sale, lease, mortgage, surrender, release or another type of disposition.	23 24
<i>transaction</i> means a purchase, investment, acquisition, retention, expenditure or another type of transaction.	25 26
‘130P Protection of land trust or member while acting under direction of court	27 28
‘(1) If a land trust or member of a land trust acts under direction of the Supreme Court, the land trust or member is to be taken to	29 30

have discharged the duty as trustee in the subject matter of the direction.	1 2
‘(2) Subsection (1) applies even if the direction is subsequently declared invalid, overruled, set aside or otherwise rendered of no effect or varied.	3 4 5
‘(3) This section does not indemnify a land trust or member of a land trust in relation to an act done in accordance with a direction of the court obtained by the land trust or member by fraud, wilful concealment or misrepresentation or in acquiescence in the fraud, wilful concealment or misrepresentation.	6 7 8 9 10 11
‘130Q Power of Supreme Court to make orders in absence of member	12 13
‘(1) If, in a proceeding under this Act, the Supreme Court is satisfied that—	14 15
(a) a diligent search has been made for a member of a land trust who is named as a party in an action; and	16 17
(b) the member can not be found to serve the member with a process of the court;	18 19
the court may hear and decide the proceeding and give judgment against the member as if the member had been served or had entered an appearance in the action, and had also appeared by counsel or solicitor at the hearing.	20 21 22 23
‘(2) Subsection (1) applies without prejudice to any interest the member may have in the matter in question in the proceeding in any other capacity.	24 25 26
‘(3) If a member, at the time of the proceeding—	27
(a) is not within the jurisdiction; or	28
(b) is under a disability; or	29
(c) can not be found;	30
the court may appoint a person to represent the member and may proceed in the absence of the member, and all orders	31 32

[s 78]

made in the proceeding are binding on the member as if the 1
member had been present and of full capacity. 2

**‘130R Power of Supreme Court to charge costs on trust 3
property 4**

‘The Supreme Court may order the cost and expenses of, and 5
incidental to, an application for an order or direction under 6
this part to be— 7

(a) paid or raised out of the trust property (other than 8
Aboriginal land) as the court considers appropriate; or 9

(b) borne and paid in the way and by the persons as the 10
court considers just. 11

‘Part 8C Appeals 12

‘130S Who may appeal 13

‘(1) A person who made representations to the Minister under part 14
2, division 3A about a proposed declaration under section 15
16B(1)(d) may appeal to the Land Court against the decision 16
to make the declaration. 17

‘(2) A lessee of a residential lease the subject of a decision under 18
section 82ZH to not renew the lease may appeal to the Land 19
Court against the decision. 20

‘(3) A person the subject of a decision under section 82ZN about 21
an amount payable to the person for forfeiture or non-renewal 22
of a residential lease may appeal to the Land Court against the 23
decision. 24

‘(4) A member of a land trust who is given, or is entitled to be 25
given, an information notice under part 8A, division 2 about a 26
decision to remove or suspend the member from the land trust 27
may appeal to the Land Court against the decision. 28

‘130T Starting appeal	1
‘(1) An appeal is started by filing written notice of appeal with the registrar of the Land Court.	2 3
‘(2) The notice of appeal must be filed within 28 days after the person receives the notice of the decision or information notice about the decision.	4 5 6
‘(3) However, the Land Court may, at any time within the 28 days, extend the period for making the appeal.	7 8
‘130U Nature of appeal	9
‘The appeal is by way of rehearing, unaffected by the decision, on the material before the decision-maker and any further evidence allowed by the Land Court.	10 11 12
‘130V Notice of appeal	13
‘A person who appeals against a decision under this part must give a copy of the notice of appeal to—	14 15
(a) for a decision mentioned in section 130S(1), (2) or (3)—the decision-maker; or	16 17
(b) for a decision mentioned in section 130S(4)—the decision-maker and the land trust.	18 19
‘130W Powers of Land Court on appeal	20
‘(1) In deciding the appeal, the Land Court has the same powers as the decision-maker.	21 22
‘(2) The Land Court may—	23
(a) confirm the decision; or	24
(b) set aside the decision and substitute another decision; or	25
(c) set aside the decision and return the issue to the decision-maker with directions the court considers appropriate.	26 27 28

[s 79]

‘(3) If the Land Court substitutes another decision, the substituted decision is, other than for the purpose of an appeal under this part, taken to be the decision of the decision-maker.’. 1
2
3

Clause 79 Amendment of s 131 (Creation of interests in transferable and claimable land) 4
5

(1) Section 131(1)(b), ‘agreement’— 6
omit. 7

(2) Section 131(6)— 8
omit. 9

(3) Section 131(7) and (8)— 10
renumber as section 131(6) and (7). 11

Clause 80 Amendment of s 132 (Rights of access to interests preserved) 12
13

(1) Section 132(2)(b), ‘Land Tribunal’— 14
omit, insert— 15
‘Land Court’. 16

(2) Section 132— 17
insert— 18

‘(5) If the only practicable way of gaining access to the person’s land is across Aboriginal land that is the subject of a townsite lease— 19
20
21

(a) subsection (2) applies as if a reference to the trustee of the land were a reference to the lessee for the townsite lease; and 22
23
24

(b) subsection (3) does not apply.’. 25

Clause 81 Amendment of s 132A (National park subject to lease to State etc.) 26
27

(1) Section 132A(7)(b), ‘as far as practicable, but’— 28

	<i>omit.</i>	1
(2)	Section 132A(7)(b), ‘act in a way that is consistent with’—	2
	<i>omit, insert—</i>	3
	‘have regard to’.	4
Clause 82	Amendment of s 134 (Delegation by Minister)	5
	Section 134, from ‘Act’—	6
	<i>omit, insert—</i>	7
	‘Act.’.	8
Clause 83	Omission of s 135 (Delegation by land claims registrar)	9
	Section 135—	10
	<i>omit.</i>	11
Clause 84	Amendment of s 136 (Amendment of description of land)	12
(1)	Section 136(1), ‘or an Aboriginal (non-transferred land) lease’—	13
	<i>omit.</i>	14
	<i>omit.</i>	15
(2)	Section 136(1), ‘, or lease over,’—	16
	<i>omit.</i>	17
(3)	Section 136(2), (3) and (4), ‘or lease’—	18
	<i>omit.</i>	19
Clause 85	Replacement of s 136A (Dealing with particular trust property)	20
	Section 136A—	21
	<i>omit, insert—</i>	22
	<i>omit, insert—</i>	23

[s 86]

‘136A Dealing with particular trust property	1
‘(1) Subsection (2) applies to a trustee, other than the State, if the trustee receives an amount paid under section 82YV for the value of a dwelling.	2 3 4
‘(2) The trustee must ensure an amount equal to the amount received is used by the trustee for housing services for Aboriginal people concerned with the land held by the trustee.	5 6 7
‘(3) Subsection (4) applies to the lessee of a townsite lease if the lessee receives an amount paid under section 82YV for the value of a dwelling.	8 9 10
‘(4) The lessee must ensure an amount equal to the amount received is used by the lessee for housing services for Aboriginal people concerned with the land the subject of the townsite lease.	11 12 13 14
‘(5) In this section—	15
<i>housing service</i> means—	16
(a) providing housing to an individual for residential use; or	17
(b) any of the following kinds of service—	18
(i) tenant advisory services;	19
(ii) tenant advocacy services;	20
(iii) home maintenance services;	21
(iv) home modification services;	22
(v) housing-related referral and information services.	23
<i>trustee</i> includes a trustee, under the Land Act, of Aboriginal trust land.’.	24 25
Clause 86 Amendment of s 137 (Survey costs etc. to be paid by State)	26 27
(1) Section 137(1), ‘or an Aboriginal lease’—	28
<i>omit.</i>	29
(2) Section 137(2)(b)—	30

omit, insert— 1
'(b) a lease prepared for section 132A; or'. 2

Clause 87 Amendment of s 138 (Regulation-making power) 3

Section 138(2)— 4

omit, insert— 5

'(2) Without limiting subsection (1), a regulation may make provision for— 6
7

(a) matters relevant to the operations, including the functions, of a land trust; and 8
9

(b) the indemnification of members of a land trust from personal liability; and 10
11

(c) rules for land trusts, including, for example, the adoption of rules and the matters that must be included in the rules; and 12
13
14

(d) accounting requirements for land trusts, including, for example, keeping accounts, preparing financial statements, auditing accounts and giving audit reports to the chief executive; and 15
16
17
18

(e) matters relating to the dissolution of Aboriginal land claim associations; and 19
20

(f) the minimum annual rental amount payable by the State under a lease granted to the State under this Act. 21
22

'(3) In this section— 23

Aboriginal land claim association means an Aboriginal land claim association incorporated under the repealed regulation and in existence immediately before the commencement of the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2010*, part 3.'. 24
25
26
27
28

Clause 88 Insertion of new s 139B 29

Part 10— 30

[s 88]

<i>insert—</i>	1
‘139B Retrospective validation of dealings with trustee (Aboriginal) lease	2 3
‘(1) Subsection (2) applies to a trustee (Aboriginal) lease if the lease—	4 5
(a) was granted under the Land Act, section 57 before 18 July 2008; and	6 7
(b) was amended, transferred, mortgaged or subleased, during the relevant period, under the Land Act, chapter 3, part 1, division 7.	8 9 10
‘(2) The amendment, transfer, mortgage or sublease of the trustee (Aboriginal) lease (the <i>dealing</i>) is taken to be, and to always have been, as valid as if—	11 12 13
(a) the dealing were a dealing carried out under this Act; and	14 15
(b) section 83R, as in force immediately after the commencement of this section, had been in force on the day the dealing was carried out.	16 17 18
‘(3) Subsection (4) applies to a trustee (Aboriginal) lease if the lease—	19 20
(a) was granted under the Land Act, section 57 before 18 July 2008; and	21 22
(b) was amended, transferred, mortgaged or subleased, during the relevant period, under this Act.	23 24
‘(4) The amendment, transfer, mortgage or sublease of the trustee (Aboriginal) lease (also the <i>dealing</i>) is taken to be, and to always have been, as valid as if section 83R, as in force immediately after the commencement of this section, had been in force on the day the dealing was carried out.	25 26 27 28 29
‘(5) In this section—	30
<i>relevant period</i> means the period starting on 18 July 2008 and ending immediately before the commencement of this section.’.	31 32 33

Clause 89	Insertion of new pt 11, div 3	1
	Part 11—	2
	<i>insert—</i>	3
‘Division 3	Transitional provisions for	4
	Aboriginal Land and Torres Strait	5
	Islander Land and Other Legislation	6
	Amendment Act 2010	7
‘144	Definition for div 3	8
	‘In this division—	9
	<i>previous</i> , for a provision of this Act, means the provision as in	10
	force immediately before the commencement of this division.	11
‘145	Continued operation of provisions for appointing	12
	grantees	13
	‘(1) This section applies despite the amendment of this Act by the	14
	<i>Aboriginal Land and Torres Strait Islander Land and Other</i>	15
	<i>Legislation Amendment Act 2010</i> .	16
	‘(2) The Minister may, on or before 1 July 2011 and under	17
	previous section 28, appoint persons the Minister considers	18
	necessary to be the grantees, as trustees for the benefit of	19
	Aboriginal people, of land the subject of a deed of grant under	20
	previous section 63.	21
	‘(3) The Minister may, under previous section 65, appoint persons	22
	the Minister considers necessary to be the grantees, as trustees	23
	for the benefit of the group of Aboriginal people concerned, of	24
	land.	25
	‘(4) If the Minister appoints grantees under previous section 28 or	26
	65, the grantees are, on appointment, taken to be incorporated	27
	as a land trust under this Act for the land.	28
	‘(5) As soon as practicable after the grantees are incorporated, the	29
	Minister must, by gazette notice, state—	30
	(a) the name of the land trust; and	31

[s 89]

- (b) the description of the land as stated in the deed of grant held by the grantees; and 1
2
 - (c) an address for service of documents on the land trust. 3
- ‘(6) The last 2 words of the name of the land trust must be the words ‘Land Trust’. 4
5
- ‘146 Continued operation of provisions about land trusts 6**
- ‘(1) The Minister may, on or before 1 July 2011, establish a land trust under previous part 5A for the purpose stated in previous section 83B. 7
8
9
- ‘(2) For subsection (1), previous section 83A applies— 10
 - (a) as if the reference in previous section 83A(3)(b) to the *Aboriginal Land Regulation 1991* were a reference to the repealed regulation; and 11
12
13
 - (b) as if the reference in previous section 83A(5) to ‘as far as practicable, act in a way that is consistent with’ were a reference to ‘have regard to’; and 14
15
16
 - (c) as if the reference in previous section 83A(6) to ‘act in a way that is consistent with’ were a reference to ‘have regard to’. 17
18
19
- ‘(3) Previous sections 83C to 83E continue to apply in relation to a land trust established under previous section 83A. 20
21
- ‘(4) For subsection (2)(a), the repealed regulation, as in force immediately before its repeal, continues in force despite its repeal. 22
23
24
- ‘(5) This section applies despite the amendment of this Act by the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2010*. 25
26
27
- ‘147 References to previous provisions after renumbering 28**
- ‘(1) A reference in another Act, a regulation or document to a particular previous provision of this Act may, if the context permits, be taken as a reference to any provision of the 29
30
31

renumbered Act, all or part of which corresponds, or
substantially corresponds, to the previous provision. 1
2

‘(2) In this section— 3

renumbered Act means this Act as renumbered under the 4
Aboriginal Land and Torres Strait Islander Land and Other 5
Legislation Amendment Act 2010, section 148.’. 6

Clause 90 Insertion of new pt 12 7

Before the schedule— 8

insert— 9

‘Part 12 Renumbering of Acts 10

‘148 Amendment to renumber 11

‘(1) On the commencement of this section, the provisions of this 12
Act are amended by numbering and renumbering them in the 13
same way as a reprint may be numbered and renumbered 14
under the *Reprints Act 1992*, section 43. 15

‘(2) Subsection (1) applies to a provision of this Act enacted or 16
otherwise affected (a *relevant provision*) by a provision of an 17
amending Act enacted but uncommenced when subsection (1) 18
is commenced (the *uncommenced provision*), with the 19
following intent for the relevant provision— 20

(a) if the number of the relevant provision would have 21
changed under subsection (1) had the uncommenced 22
provision commenced— 23

(i) a number is allocated to the relevant provision as if 24
the uncommenced provision had commenced; and 25

(ii) when the uncommenced provision commences, the 26
number of the relevant provision is amended by 27
omitting it and inserting the number allocated to it 28
under subparagraph (i); 29

(b) if the relevant provision would have been omitted or 30
relocated had the uncommenced provision commenced, 31

[s 91]

	its number remains the same as it was before the commencement of subsection (1) until the omission or relocation takes effect.	1 2 3
‘(3)	Without limiting the <i>Reprints Act 1992</i> , section 43(4), each reference in this Act, and each reference in the <i>Torres Strait Islander Land Act 1991</i> to a provision of this Act renumbered under subsection (1), is amended, when the renumbering happens, by omitting the reference to the previous number and inserting the new number.	4 5 6 7 8 9
‘(4)	In this section— <i>amending Act</i> means an Act that amends this Act.	10 11
‘149	Expiry of part	12
	‘This part expires on the later of the following—	13
	(a) the day after the commencement of the last numbering or renumbering of a provision done under section 148;	14 15
	(b) 31 July 2011.’.	16
Clause 91	Amendment of schedule (Dictionary)	17
(1)	Schedule, definitions <i>Aboriginal land claim association</i> , <i>Aboriginal lease</i> , <i>Aboriginal (non-transferred land) lease</i> , <i>Aboriginal (transferred land) lease</i> , <i>land claims registrar</i> , <i>land trust, lease, maximum amount, registrar of titles, Torres Strait Islander, transferee, transferor and trustee (Aboriginal) lease</i> —	18 19 20 21 22 23
	<i>omit</i> .	24
(2)	Schedule—	25
	<i>insert</i> —	26
	‘ <i>Aboriginal land holding entity register</i> see section 82AAA(1).	27 28
	<i>accepted representations</i> see section 130AG(2).	29
	<i>account</i> , for part 8A, division 5, see section 130C.	30

-
- available State land agreement** see section 19A(1). 1
- CATSI corporation** means a corporation registered under the 2
Corporations (Aboriginal and Torres Strait Islander) Act 3
2006 (Cwlth). 4
- decision-maker**, for part 8C, means— 5
- (a) for a decision mentioned in section 130S(1) or (4)—the 6
Minister; or 7
- (b) for a decision mentioned in section 130S(2) or (3) about 8
forfeiture or non-renewal of a lease—the lessor of the 9
lease land. 10
- excluded land** means any of the following— 11
- (a) land inside the Torres Strait area; 12
- (b) city or town land or township land; 13
- (c) a reserve under the Land Act; 14
- (d) land that is set apart and declared as a State forest or 15
timber reserve under the *Forestry Act 1959*; 16
- (e) a road; 17
- (f) a stock route; 18
- (g) land subject to a special mining Act; 19
- (h) land that has become unallocated State land, if a person 20
has a right, other than under this Act, against the State to 21
the grant of an interest in that land. 22
- executive committee**, of a land trust, means the committee of 23
the land trust— 24
- (a) primarily responsible for the management of the land 25
trust; and 26
- (b) consisting of the following— 27
- (i) the chairperson of the land trust; 28
- (ii) the deputy chairperson and secretary, if any, of the 29
land trust; 30

[s 91]

- (iii) the persons holding another executive office of the
land trust. 1
2
- holder**, for part 8A, division 5, see section 130C. 3
- ILUA** means an indigenous land use agreement noted in the
ILUA register. 4
5
- ILUA register** means the Register of Indigenous Land Use
Agreements under the Commonwealth Native Title Act,
section 253. 6
7
8
- information**, for part 8A, division 4, see section 130A. 9
- Land Holding Act** means the *Aborigines and Torres Strait
Islanders (Land Holding) Act 1985*. 10
11
- land trust** means— 12
- (a) an entity— 13
- (i) formed through the incorporation, under the
repealed regulation, of persons as a land trust; and 14
15
- (ii) either established under section 146 or in existence
immediately before the commencement of the
*Aboriginal Land and Torres Strait Islander Land
and Other Legislation Amendment Act 2010*, part
3; or 16
17
18
19
20
- (b) an entity taken to be incorporated as a land trust under
section 145. 21
22
- lease**— 23
- 1 **Lease**— 24
- (a) for part 5AB, division 5, see section 82YS; or 25
- (b) for part 5E, see section 83OA. 26
- 2 A **lease** does not include a residential tenancy
agreement. 27
28
- lessee**, for part 5AB, division 6, see section 82YZ. 29
- lessor**— 30
- (a) for part 5AB, division 5, see section 82YS; or 31

-
- (b) for part 5AB, division 6, see section 82YZ; or 1
- (c) for part 5E, see section 83OA. 2
- maximum amount** see section 82ZN(2). 3
- member**, of a land trust, means each person who, for the time 4
being, is a member of the land trust, including, for example— 5
- (a) an initial grantee of Aboriginal land held by the land 6
trust; and 7
- (b) another person appointed by the Minister as trustee of 8
the Aboriginal land held by the land trust; and 9
- (c) a person appointed by the Minister or the land trust as a 10
member of the land trust. 11
- prescribed DOGIT land** means land comprised in any of the 12
following deeds of grant in trust held for the benefit of 13
Islander inhabitants— 14
- (a) deed of grant in trust (title reference 21328057) for 15
Bamaga; 16
- (b) deed of grant in trust (title reference 21296131) for 17
Hammond Island; 18
- (c) deed of grant in trust (title reference 21352022) for 19
Seisia. 20
- prescribed reserve land** see section 83ZE. 21
- previous**, for part 11, division 3, see section 144. 22
- proposed action** see section 130AF(3)(a). 23
- qualified**, for a CATSI corporation that holds, or is proposed 24
to hold, Aboriginal land under this Act, means— 25
- (a) membership of the CATSI corporation is restricted to 26
Aboriginal people particularly concerned with the land; 27
or 28
- (b) the CATSI corporation is a trustee of a trust the 29
beneficiaries of which are restricted to Aboriginal 30
people particularly concerned with the land. 31

[s 91]

registrar of titles means the registrar of titles under the Land Title Act.	1 2
repealed regulation means the repealed <i>Aboriginal Land Regulation 1991</i> .	3 4
required amount see section 82ZN(1).	5
residential lease see section 82YZ.	6
residential tenancy means a residential tenancy under the <i>Residential Tenancies and Rooming Accommodation Act 2008</i> .	7 8 9
show cause notice see section 130AF(2).	10
show cause period see section 130AF(3)(e).	11
standard lease see section 82W(2).	12
Torres Strait Islander means a person who is a descendant of an indigenous inhabitant of the Torres Strait Islands.	13 14
Torres Strait Islander particularly concerned with the land , for land that is or was prescribed DOGIT land, means a Torres Strait Islander who lives on the land.	15 16 17
townsite lease see section 82W(3).	18
townsite sublease see section 82YL(1).	19
transferee —	20
(a) for part 5A, division 4, subdivision 1, see section 82H(1); and	21 22
(b) for part 5A, division 4, subdivision 2, see section 82M(1).	23 24
transferor —	25
(a) for part 5A, division 4, subdivision 1, see section 82H(1); and	26 27
(b) for part 5A, division 4, subdivision 2, see section 82M(1).	28 29
trustee (Aboriginal) lease see section 83R.	30
trust money , for part 8A, division 5, see section 130C.	31

<i>trust property</i> , in relation to a land trust or a member of a land trust, includes—	1 2
(a) income derived from Aboriginal land held by the land trust; and	3 4
(b) amounts paid to the land trust in relation to—	5
(i) the grant of an interest in the land; or	6
(ii) the creation of a mining interest in the land; or	7
(iii) an agreement entered into in relation to the land; and	8 9
(c) amounts paid by any person or governmental authority, or any other property, that is received or acquired by the land trust or for the land trust by a member of the land trust.’	10 11 12 13
(3) Schedule, definition <i>available State land</i> , from ‘section 19,’— <i>omit, insert</i> — ‘section 19.’	14 15 16
(4) Schedule, definition <i>registrar</i> , paragraph (a), ‘under the Land Title Act’— <i>omit</i> .	17 18 19
(5) Schedule, definition <i>trustee</i> , paragraph (a), ‘for a provision about’— <i>omit, insert</i> — ‘in relation to’.	20 21 22 23

Part 4 **Amendment of Liquor Act 1992** 24

Clause 92 Act amended	25
This part amends the <i>Liquor Act 1992</i> .	26

[s 93]

Clause 93	Amendment of s 4 (Definitions)	1
	Section 4, definition <i>community police officer</i> , paragraph (a), from ‘1984’ to ‘for’—	2 3
	<i>omit, insert—</i>	4
	‘1984 for’.	5
Part 5	Amendment of Local Government (Aboriginal Lands) Act 1978	6 7 8
Clause 94	Act amended	9
	This part amends the <i>Local Government (Aboriginal Lands) Act 1978</i> .	10 11
Clause 95	Amendment of long title	12
	Long title, from ‘creation’—	13
	<i>omit, insert—</i>	14
	‘ granting of leases of land to the Council of the Shire of Aurukun and the Council of the Shire of Mornington and the regulation of entry on shire areas ’	15 16 17
Clause 96	Replacement of s 1 (Short title)	18
	Section 1—	19
	<i>omit, insert—</i>	20
‘1	Short title	21
	‘This Act may be cited as the <i>Aurukun and Mornington Shire Leases Act 1978</i> .’.	22 23

Clause 97	Amendment of s 2 (Definitions)	1
	Section 2, definitions for <i>Aboriginal police officer</i> , <i>liquor provisions</i> and <i>police officer in charge</i> —	2
	<i>omit.</i>	3
		4
Clause 98	Amendment of s 3 (Grant of leases to councils)	5
(1)	Section 3(1)(a), ‘declared by section 6’—	6
	<i>omit, insert</i> —	7
	‘as shown on map no. LGRB2 held at the department’s office at Brisbane as the Shire of Aurukun.’	8
		9
(2)	Section 3(1)(b), ‘declared by section 7’—	10
	<i>omit, insert</i> —	11
	‘as shown on map no. LGRB45 held at the department’s office at Brisbane as the Shire of Mornington.’	12
		13
(3)	Section 3(1)—	14
	<i>insert</i> —	15
	‘ <i>Editor’s note</i> —	16
	A copy of each of the maps mentioned in this subsection is available for inspection, without charge, during normal business hours at the department’s head office and at each department office in the general area for which the lease is granted.’	17
		18
		19
		20
Clause 99	Insertion of new s 4A	21
	Part 2—	22
	<i>insert</i> —	23
‘4A	Roads within shires	24
(1)	This section applies to a road constructed or formed—	25
(a)	within the Shire of Aurukun by the Council of Shire of Aurukun; or	26
		27
(b)	within the Shire of Mornington by the Council of Shire of Mornington;	28
		29

[s 100]

whether before or after the commencement of this section. 1

‘(2) The road is taken to be a road dedicated to public use and to 2
be a road within the meaning of— 3

(a) the *Transport Infrastructure Act 1994*; or 4

(b) the *Transport Operations (Road Use Management) Act 5
1995*; or 6

(c) any other Act the application of which in or in relation 7
to any place depends upon that place being a road or part 8
of a road. 9

‘(3) Subsection (2) does not entitle a person to be on the road 10
unless the person is authorised by some other provision of this 11
Act to be in the Shire of Aurukun or, as the case may be, the 12
Shire of Mornington at the material time. 13

‘(4) Land that is, or is under, the road is not part of the demised 14
land.’. 15

Clause 100 Omission of pts 3 and 4 16

Parts 3 and 4— 17

omit. 18

Clause 101 Amendment of s 18A (Application of pt 5) 19

(1) Section 18A, ‘part, apart from section 32, applies’— 20

omit, insert— 21

‘part applies’. 22

(2) Section 18A, ‘the *Local Government Act 1993*, part 1B, is’— 23

omit, insert— 24

‘the repealed *Local Government Act 1993*, chapter 3, part 1B, 25
was’. 26

Clause 102	Amendment of s 20 (Entry upon and temporary stay in shires)	1 2
	(1) Section 20(1)(b), from ‘religious’ to ‘or’— <i>omit.</i>	3 4
	(2) Section 20(2)— <i>omit.</i>	5 6
Clause 103	Amendment of s 21 (Local laws may regulate presence in shires)	7 8
	(1) Section 21(1)— <i>omit, insert—</i>	9 10
	‘(1) The Council of the Shire of Aurukun or the Council of the Shire of Mornington may make local laws, under section 28(1) of the <i>Local Government Act 2009</i> , that authorise persons of a stated class to enter, be in or reside in its area.’.	11 12 13 14
	(2) Section 21(2), ‘local law under’— <i>omit, insert—</i> ‘local law mentioned in’.	15 16 17
Clause 104	Omission of s 22 (Councils may levy charge on residents of residential premises)	18 19
	Section 22— <i>omit.</i>	20 21
Clause 105	Replacement of s 23 (Power of ejectment and control)	22
	Section 23— <i>omit, insert—</i>	23 24
	‘23 Removal from shires	25
	‘(1) A police officer or community police officer may remove, from any part of a local government area to which this part	26 27

[s 106]

applies, a person who is not permitted under this part to be in
the area. 1
2

‘(2) It is lawful for a community police officer exercising or 3
attempting to exercise a power under subsection (1), and 4
anyone helping the community police officer, to use 5
reasonably necessary force to exercise the power. 6

Note— 7

See also the *Police Powers and Responsibilities Act 2000*, section 615 8
(Power to use force against individuals). 9

‘(3) The force a community police officer may use under this 10
section does not include force likely to cause grievous bodily 11
harm to a person or the person’s death.’. 12

Clause 106 Omission of s 24 (Reason for exclusion—right of appeal) 13
Section 24— 14
omit. 15

Clause 107 Amendment of s 29 (Restriction on councils’ power over 16
land) 17
Section 29(f)— 18
omit. 19

Clause 108 Omission of ss 30–33 20
Sections 30 to 33— 21
omit. 22

Part 6	Amendment of Local Government Act 2009	1 2
Clause 109	Act amended	3
	This part amends the <i>Local Government Act 2009</i> .	4
Clause 110	Amendment of s 100 (Fees on residents of indigenous local government areas)	5 6
	(1) Section 100, heading, ‘indigenous’—	7
	<i>omit, insert—</i>	8
	‘ particular ’.	9
	(2) Section 100(1), ‘An indigenous’—	10
	<i>omit, insert—</i>	11
	‘A’.	12
	(3) Section 100(2), ‘indigenous’—	13
	<i>omit.</i>	14
	(4) Section 100(1) and (2)—	15
	<i>renumber</i> as section 100(2) and (3).	16
	(5) Section 100—	17
	<i>insert—</i>	18
	‘(1) This section applies to the following local governments—	19
	(a) Aurukun Shire Council;	20
	(b) Mornington Shire Council;	21
	(c) an indigenous local government.’.	22
Clause 111	Amendment of s 163 (When a vacancy in an office must be filled)	23 24
	Section 163(3), ‘2 months’—	25

[s 112]

omit, insert— 1
‘10 weeks’. 2

Part 7 **Amendment of Nature Conservation Act 1992** 3 4

Clause 112 Act amended 5
This part amends the *Nature Conservation Act 1992*. 6
Note— 7
See also the schedule. 8

Clause 113 Amendment of s 40 (Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land)) 9
10
11
Section 40(3), from ‘grantees’— 12
omit, insert— 13
‘indigenous landholder for the land.’. 14

Clause 114 Amendment of s 41 (Dedication of Aboriginal land as national park (Aboriginal land) or Torres Strait Islander land as national park (Torres Strait Islander land)) 15
16
17
(1) Section 41(2), ‘grantees of’— 18
omit, insert— 19
‘indigenous landholder for’. 20
(2) Section 41(4), from ‘grantees’— 21
omit, insert— 22
‘indigenous landholder, and the board of management, for the land.’. 23
24

Clause 115	Amendment of s 42AA (Dedication of national park as national park (Cape York Peninsula Aboriginal land))	1 2
	Section 42AA(3), from ‘grantees’—	3
	<i>omit, insert—</i>	4
	‘indigenous landholder for the land.’	5
Clause 116	Amendment of s 42AB (Dedication of Aboriginal land as national park (Cape York Peninsula Aboriginal land))	6 7
	(1) Section 42AB(1)(a)—	8
	<i>omit, insert—</i>	9
	‘(a) the indigenous landholder for the land has entered into an indigenous management agreement for it; and’.	10 11
	(2) Section 42AB(1)(b), ‘grantees’—	12
	<i>omit, insert—</i>	13
	‘indigenous landholder’.	14
Clause 117	Amendment of s 42AC (Dedication of other land as national park (Cape York Peninsula Aboriginal land))	15 16
	(1) Section 42AC(1)(a), ‘a land trust’—	17
	<i>omit, insert—</i>	18
	‘an entity’.	19
	(2) Section 42AC(1)(b), ‘land trust’—	20
	<i>omit, insert—</i>	21
	‘entity’.	22
Clause 118	Amendment of s 42AD (Leases etc. over national park (Cape York Peninsula Aboriginal land))	23 24
	Section 42AD(1), ‘land trust’—	25
	<i>omit, insert—</i>	26
	‘indigenous landholder’.	27

[s 119]

Clause 119	Amendment of s 42AE (Particular powers about permitted uses in national park (Cape York Peninsula Aboriginal land))	1 2 3
	Section 42AE(1), ‘land trust’—	4
	<i>omit, insert—</i>	5
	‘indigenous landholder’.	6
Clause 120	Insertion of new s 42AF	7
	Part 4, division 3, subdivision 2—	8
	<i>insert—</i>	9
	‘42AF Revocation of national park (Cape York Peninsula Aboriginal land)	10 11
	‘(1) A regulation may revoke the dedication of all or a part of a national park (Cape York Peninsula Aboriginal land) if the land in the national park or the part of the national park has been surrendered to the State.	12 13 14 15
	‘(2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.’.	16 17 18 19
Clause 121	Amendment of s 111 (Management plans)	20
	Section 111(8)(a), ‘land trust’—	21
	<i>omit, insert—</i>	22
	‘indigenous landholder’.	23
Clause 122	Amendment of s 120 (Implementation of approved plan)	24
	Section 120(1)(b), ‘land trust’—	25
	<i>omit, insert—</i>	26
	‘indigenous landholder’.	27

Clause 123	Amendment of schedule (Dictionary)	1
(1)	Schedule, definition <i>land trust</i> — <i>omit.</i>	2 3
(2)	Schedule— <i>insert</i> — ‘indigenous landholder , for a protected area or land, means the entity that, under the <i>Aboriginal Land Act 1991</i> or the <i>Torres Strait Islander Land Act 1991</i> , is the trustee for the protected area or land.’.	4 5 6 7 8 9
(3)	Schedule, definition <i>landholder</i> , paragraph (c), ‘includes the grantees of’— <i>omit, insert</i> — ‘the indigenous landholder for’.	10 11 12 13

Part 8	Amendment of Petroleum Act 1923	14 15
---------------	--	----------

Clause 124	Act amended	16
	This part amends the <i>Petroleum Act 1923</i> .	17

Clause 125	Amendment of s 2 (Definitions)	18
(1)	Section 2, definition <i>owner</i> , paragraph 1(j), ‘ <i>Local Government (Aboriginal Lands) Act 1978</i> ’— <i>omit, insert</i> — ‘ <i>Aurukun and Mornington Shire Leases Act 1978</i> ’.	19 20 21 22
(2)	Section 2, definition <i>owner</i> , paragraph 1(k)— <i>omit, insert</i> —	23 24

[s 126]

- ‘(k) for Aboriginal land under the *Aboriginal Land Act 1991* that is taken to be a reserve because of section 87(2) or 87(4)(b) of that Act—the trustee of the land; 1
2
3
- (ka) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 84(2) of that Act—the trustee of the land;’. 4
5
6
7
- (3) Section 2, definition *private land*, paragraph 1(a), after ‘land’— 8
9
insert— 10
‘, including Aboriginal land under the *Aboriginal Land Act 1991* and Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*’. 11
12
13

Part 9 **Amendment of Petroleum and Gas (Production and Safety) Act 2004** 14
15
16

Clause 126 **Act amended** 17
This part amends the *Petroleum and Gas (Production and Safety) Act 2004*. 18
19

Clause 127 **Amendment of sch 2 (Dictionary)** 20

(1) Schedule 2, definition *owner*, paragraph 1(j), ‘*Local Government (Aboriginal Lands) Act 1978*’— 21
22
omit, insert— 23
‘*Aurukun and Mornington Shire Leases Act 1978*’. 24

(2) Schedule 2, definition *owner*, paragraph 1(k)— 25
omit, insert— 26

-
- ‘(k) for Aboriginal land under the *Aboriginal Land Act 1991* that is taken to be a reserve because of section 87(2) or 87(4)(b) of that Act—the trustee of the land; 1
2
3
- (ka) for Torres Strait Islander land under the *Torres Strait Islander Land Act 1991* that is taken to be a reserve because of section 84(2) of that Act—the trustee of the land;’. 4
5
6
7
- (3) Schedule 2, definition *private land*, paragraph 1(a), after ‘land’— 8
9
- insert—* 10
- ‘, including Aboriginal land under the *Aboriginal Land Act 1991* and Torres Strait Islander land under the *Torres Strait Islander Land Act 1991*’. 11
12
13

Part 10 **Amendment of Residential Tenancies and Rooming Accommodation Act 2008** 14
15
16

- Clause 128 Act amended** 17
- This part amends the *Residential Tenancies and Rooming Accommodation Act 2008*. 18
19
- Clause 129 Amendment of s 422 (Application of Aboriginal tradition)** 20
- Section 422(1)(a)— 21
- omit, insert—* 22
- ‘(a) the lessor is— 23
- (i) an indigenous local government, including an indigenous regional council, under the *Local Government Act 2009*; or 24
25
26
- (ii) Aurukun Shire Council; or 27

[s 130]

	(iii) Mornington Shire Council; or	1
	(iv) an entity prescribed under a regulation; and’.	2
Clause 130	Amendment of s 423 (Application of Island custom)	3
	Section 423(1)(a)(i), ‘ <i>Local Government Act 1993</i> ’—	4
	<i>omit, insert—</i>	5
	‘ <i>Local Government Act 2009</i> ’.	6
Part 11	Amendment of Right to Information Act 2009	7
		8
Clause 131	Act amended	9
	This part amends the <i>Right to Information Act 2009</i> .	10
Clause 132	Amendment of s 113 (Disciplinary action)	11
	(1) Section 113(3)(c)—	12
	<i>omit.</i>	13
	(2) Section 113(3)(d) to (h)—	14
	<i>renumber</i> as section 113(3)(c) to (g).	15
Part 12	Amendment of Torres Strait Islander Land Act 1991	16
		17
Clause 133	Act amended	18
	This part amends the <i>Torres Strait Islander Land Act 1991</i> .	19

Note—

See also the schedule.

Clause 134 Amendment of s 3 (Definitions)

(1) Section 3, ‘In this Act—’—

omit, insert—

‘The dictionary in the schedule defines particular words used in this Act.’

(2) Section 3, definitions *available Crown land, claimable land, coast, Crown, granted land, interested person, land claims registrar, Land Tribunal, land trust, lease, maximum amount, mineral, native title interests, non-presiding member, presiding member, quarry material, registrar of titles, Torres Strait Islander land claim association, Torres Strait Islander lease, Torres Strait Islander (non-transferred land) lease, Torres Strait Islander (transferred land) lease, township land, tribunal, trustee, trustee (Torres Strait Islander) lease and watercourse—*

omit.

(3) Section 3—

insert—

‘accepted representations see section 92(2).

account, for part 8, division 5, see section 100.

approved form means a form approved under section 134B.

available State land means land that is available State land under section 16.

available State land agreement see section 16A(1).

CATSI corporation means a corporation registered under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cwlth).

commencement, for part 10, division 3, see section 138.

decision-maker, for part 8B, means—

[s 134]

- (a) for a decision mentioned in section 115(1) or (4)—the Minister; or 1
2
- (b) for a decision mentioned in section 115(2) or (3) about forfeiture or non-renewal of a lease—the lessor of the lease land. 3
4
5
- excluded land*** means any of the following— 6
- (a) land outside the Torres Strait area; 7
- (b) city or town land or township land; 8
- (c) a reserve under the Land Act; 9
- (d) land that is set apart and declared as a State forest or timber reserve under the *Forestry Act 1959*; 10
11
- (e) a road; 12
- (f) land that has become unallocated State land, if a person has a right, other than under this Act, against the State to the grant of an interest in that land. 13
14
15
- executive committee***, of a land trust, means the committee of the land trust— 16
17
- (a) primarily responsible for the management of the land trust; and 18
19
- (b) consisting of the following— 20
- (i) the chairperson of the land trust; 21
- (ii) the deputy chairperson and secretary, if any, of the land trust; 22
23
- (iii) the persons holding another executive office of the land trust. 24
25
- holder***, for part 8, division 5, see section 100. 26
- ILUA*** means an indigenous land use agreement noted in the ILUA register. 27
28
- ILUA register*** means the Register of Indigenous Land Use Agreements under the Commonwealth Native Title Act, section 253. 29
30
31

-
- information**, for part 8, division 3, see section 98. 1
- Land Holding Act** means the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*. 2
3
- land trust** means— 4
- (a) an entity— 5
- (i) formed through the incorporation under the 6
repealed *Torres Strait Islander Land Regulation* 7
1991 of persons as a land trust; and 8
- (ii) in existence immediately before the 9
commencement of the *Aboriginal Land and Torres* 10
Strait Islander Land and Other Legislation 11
Amendment Act 2010, part 12; or 12
- (b) an entity taken to be incorporated as a land trust under 13
section 140. 14
- lease**— 15
- 1 *Lease*— 16
- (a) for part 4C, division 5, see section 71; or 17
- (b) for part 5A, see section 80AA. 18
- 2 A *lease* does not include a residential tenancy 19
agreement. 20
- lessee**, for part 4C, division 6, see section 74. 21
- lessor**— 22
- (a) for part 4C, division 5, see section 71; or 23
- (b) for part 4C, division 6, see section 74; or 24
- (c) for part 5A, see section 80AA. 25
- maximum amount** see section 77A(2). 26
- member**, of a land trust, means each person who, for the time 27
being, is a member of the land trust, including, for example— 28
- (a) an initial grantee of Torres Strait Islander land held by 29
the land trust; and 30

[s 134]

- (b) another person appointed by the Minister as trustee of the Torres Strait Islander land held by the land trust; and 1
2
- (c) a person appointed by the Minister or the land trust as a member of the land trust. 3
4
- mineral*** see the *Mineral Resources Act 1989*, section 6. 5
- prescribed DOGIT land*** means land comprised in any of the following deeds of grant in trust held for the benefit of Islander inhabitants— 6
7
8
- (a) deed of grant in trust (title reference 21328057) for Bamaga; 9
10
- (b) deed of grant in trust (title reference 21296131) for Hammond Island; 11
12
- (c) deed of grant in trust (title reference 21352022) for Seisia. 13
14
- previous***, for part 10, division 3, see section 138. 15
- proposed action*** see section 91(3)(a). 16
- qualified***, for a CATSI corporation that holds, or is proposed to hold, Torres Strait Islander land under this Act, means— 17
18
- (a) membership of the CATSI corporation is restricted to Torres Strait Islanders particularly concerned with the land; or 19
20
21
- (b) the CATSI corporation is a trustee of a trust the beneficiaries of which are restricted to Torres Strait Islanders particularly concerned with the land. 22
23
24
- quarry material*** see the *Forestry Act 1959*, schedule 3. 25
- registrar of titles*** means the registrar of titles under the Land Title Act. 26
27
- required amount*** see section 77A(1). 28
- residential lease*** see section 74. 29
- residential tenancy*** means a residential tenancy under the *Residential Tenancies and Rooming Accommodation Act 2008*. 30
31
32

<i>show cause notice</i> see section 91(2).	1
<i>show cause period</i> see section 91(3)(e).	2
<i>standard lease</i> see section 61(2).	3
<i>Torres Strait Islander land holding entity register</i> see section 41(1).	4 5
<i>township land</i> means land declared under section 20 to be township land.	6 7
<i>townsite lease</i> see section 61(3).	8
<i>townsite sublease</i> see section 68(1).	9
<i>transferee</i> —	10
(a) for part 4B, division 4, subdivision 1, see section 57A(1); and	11 12
(b) for part 4B, division 4, subdivision 2, see section 58A(1).	13 14
<i>transferor</i> —	15
(a) for part 4B, division 4, subdivision 1, see section 57A(1); and	16 17
(b) for part 4B, division 4, subdivision 2, see section 58A(1).	18 19
<i>trust money</i> , for part 8, division 5, see section 100.	20
<i>trustee</i> —	21
(a) in relation to Torres Strait Islander land—means the land trust or other entity that holds the land under this Act; and	22 23 24
(b) of Torres Strait Islander trust land—see section 80D.	25
<i>trustee (Torres Strait Islander) lease</i> see section 80D.	26
<i>trust property</i> , in relation to a land trust or a member of a land trust, includes—	27 28
(a) income derived from Torres Strait Islander land held by the land trust; and	29 30
(b) amounts paid to the land trust in relation to—	31

[s 135]

- (i) the grant of an interest in the land; or 1
- (ii) the creation of a mining interest in the land; or 2
- (iii) an agreement entered into in relation to the land; 3
and 4
- (c) amounts paid by any person or governmental authority, 5
or any other property, that is received or acquired by the 6
land trust or for the land trust by a member of the land 7
trust. 8

watercourse means a watercourse under the *Water Act 2000*.’. 9

- (4) Section 3, definitions *city or town land*, *DOGIT land*, *Island* 10
custom, *lake*, *natural gas*, *Torres Strait area*, *Torres Strait* 11
Islander, *Torres Strait Islander land*, *Torres Strait Islander* 12
reserve land, *transferable land*, *transferred land*, ‘has the 13
meaning given by’— 14

omit, *insert*— 15

‘see’. 16

- (5) Section 3, definition *registrar*, paragraph (a), ‘under the Land 17
Title Act’— 18

omit. 19

- (6) Section 3, definitions, as amended under this section— 20
relocate to the schedule as inserted by this Act. 21

Clause 135 Omission of s 5 (Meaning of *native title interests*) 22

Section 5— 23

omit. 24

Clause 136 Replacement of s 6 (Crown bound) 25

Section 6— 26

omit, *insert*— 27

'6	Acts binds all persons	1
	'This Act binds all persons, including the State, and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.'	2 3 4
Clause 137	Amendment of s 9 (Meaning of Torres Strait Islander land)	5 6
	(1) Section 9(1), from 'land is—'— <i>omit, insert—</i> 'land is transferred land.'	7 8 9
	(2) Section 9(2) and (3)— <i>omit.</i>	10 11
Clause 138	Amendment of s 10 (Meaning of transferable and transferred land)	12 13
	Section 10(1) and (2), from 'part 3'— <i>omit, insert—</i> 'part 3.'	14 15 16
Clause 139	Amendment of s 12 (DOGIT land)	17
	(1) Section 12(1), 'a road'— <i>omit, insert—</i> 'a road or prescribed DOGIT land'.	18 19 20
	(2) Section 12(1), 'is—'— <i>omit, insert—</i> 'was—'.	21 22 23
	(3) Section 12(1)(b)(i) to (iv), 'is'— <i>omit.</i>	24 25
	(4) Section 12(1)(b)(ii), 'Crown land'—	26

[s 140]

omit, insert— 1

‘unallocated State land’. 2

- (5) Section 12(1)(b)(iii), ‘by the Crown under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985*’— 3
4

omit, insert— 5

‘under the Land Holding Act’. 6

- (6) Section 12(1)(b)(iv), ‘by the Crown’— 7

omit. 8

- (7) Section 12(1)(b)— 9

insert— 10

‘(v) the subject of an application under the Land Holding Act, section 5, that had been approved by the trustee council, or approved on appeal by the appeal tribunal, under that Act, but for which a lease under that Act has not been granted.’. 11
12
13
14
15

- (8) Section 12(3)— 16

renumber as section 12(4). 17

- (9) Section 12— 18

insert— 19

- ‘(3) Also, DOGIT land includes land within the external boundaries of land mentioned in subsection (1)(a) if— 20
21

(a) the land was the subject of an application under the Land Holding Act, section 5, that was approved by the trustee council, or approved on appeal by the appeal tribunal, under that Act after the enactment day; and 22
23
24
25

(b) a lease under that Act has not been granted for the land.’. 26

Clause 140 Amendment of s 13 (Torres Strait Islander reserve land) 27

- (1) Section 13(b), from ‘and subject’ to ‘1985;’— 28

omit, insert— 29

-
- ‘and— 1
- (i) subject to a lease granted under the Land Holding Act; or 2
3
 - (ii) the subject of an application under the Land Holding Act, section 5, that had been approved by the trustee council, or approved on appeal by the appeal tribunal, under that Act, but for which a lease under that Act has not been granted;’. 4
5
6
7
8
- (2) Section 13— 9
- insert—* 10
- ‘(2) Also, Torres Strait Islander reserve land includes land within the external boundaries of land mentioned in subsection (1)(a) if— 11
12
13
- (a) the land was the subject of an application under the Land Holding Act, section 5, that was approved by the trustee council, or approved on appeal by the appeal tribunal, under that Act after the enactment day; and 14
15
16
17
 - (b) a lease under that Act has not been granted for the land.’. 18

- Clause 141 Amendment of s 13B (Particular land may be declared to be not transferable land)** 19
20
- (1) Section 13B(1), ‘under this division’— 21
- omit.* 22
- (2) Section 13B(1)(b) and (2)(a), ‘by Torres Strait Islanders on the land’— 23
24
- omit.* 25
- (3) Section 13B(3), ‘under this division’— 26
- omit, insert—* 27
- ‘to the Land Court’. 28

[s 142]

Clause 142	Amendment of s 13C (Notice of intention to make declaration)	1
		2
	Section 13C(1)(b), ‘within 10 business days’—	3
	<i>omit, insert—</i>	4
	‘as soon as practicable’.	5
Clause 143	Amendment of s 13D (Minister to consider representations and give notice of decision)	6
		7
	(1) Section 13D(2)—	8
	<i>renumber</i> as section 13D(3).	9
	(2) Section 13D—	10
	<i>insert—</i>	11
	‘(2) The Minister may, after considering the representations, decide to make the declaration for all or a part of the relevant land described in the notice under section 13C.’.	12
		13
		14
	(3) Section 13D(3), as renumbered under this section, from ‘must’—	15
		16
	<i>omit, insert—</i>	17
	‘must—	18
	(a) include a description of the relevant land to be declared not transferable under this division; and	19
		20
	(b) state all of the following—	21
	(i) the provision under which the declaration is to be made;	22
		23
	(ii) the reasons for the decision;	24
	(iii) if the Minister is to make the declaration under section 13B(1)(d)—that a person who made representations about the proposed declaration may appeal against the decision to the Land Court within 28 days after receiving the notice, and how the person may appeal.’.	25
		26
		27
		28
		29
		30

Clause 144	Omission of ss 13E and 13F	1
	Sections 13E and 13F—	2
	<i>omit.</i>	3
Clause 145	Amendment of s 13I (Requirements about plans of subdivision for declarations under s 13B)	4
	Section 13I, heading, ‘under s 13B’—	5
	<i>omit.</i>	6
Clause 146	Omission of ss 14 and 15	7
	Sections 14 and 15—	8
	<i>omit.</i>	9
Clause 147	Replacement of s 16 (Lands that are available Crown land—general)	10
	Section 16—	11
	<i>omit, insert—</i>	12
‘16	Land that is available State land—general	13
‘(1)	Land is available State land if it is—	14
(a)	land, other than excluded land, in which no person other than the State has an interest; or	15
(b)	land, other than excluded land, that is subject to an interest issued by the State, if an available State land agreement is in force for the land.	16
‘(2)	Subsection (1) is subject to sections 17 and 18.	17
‘(3)	In this section—	18
	<i>interest</i> means a legal or equitable interest in the land but does not include native title, a mining interest or an easement.	19
		20
		21
		22
		23
		24
		25

[s 148]

‘16A Agreement about particular land	1
‘(1) The Minister may enter into a written agreement (an <i>available State land agreement</i>) about land, other than excluded land—	2 3
(a) with a person who has an interest in the land granted by the State; and	4 5
(b) under which the State and the person agree that the land may be available State land.	6 7
‘(2) The Minister may enter into an available State land agreement for particular land only if satisfied that entering into the agreement is appropriate in the circumstances having regard to an evaluation of the land under the Land Act, section 16.	8 9 10 11
‘(3) An available State land agreement must provide that on the grant of the land under part 3 the person’s interest in the land is to cease and a new interest granted by the trustee of the land is to have effect in substitution for the person’s interest.	12 13 14 15
‘(4) However, if the interest is a lease granted under the Land Act, the agreement may provide that the interest is to continue in force under section 31.	16 17 18
‘(5) Subsection (6) applies if a proposed available State land agreement is to state that a person’s interest in land is to cease and a new interest granted by the proposed trustee of the land is to have effect in substitution for the person’s interest.	19 20 21 22
‘(6) To remove any doubt, it is declared that the Minister need not enter into the available State land agreement unless satisfied a new interest granted by the proposed trustee of the land is to have effect in substitution for the person’s interest in the land.’.	23 24 25 26 27
Clause 148 Amendment of s 19 (Meaning of city or town land)	28
Section 19(1), ‘is, at the beginning of the enactment day, within’—	29 30
<i>omit, insert—</i>	31
‘is within’.	32

Clause 149	Replacement of s 22 (Lands that are not available Crown land)	1
		2
	Section 22—	3
	<i>omit, insert—</i>	4
'22	Land that is not available State land	5
	'(1) To remove any doubt, it is declared that the following land is not available State land—	6
		7
	(a) the waters of the sea, and the seabed, other than tidal land declared to be available State land under section 18(1);	8
		9
		10
	(b) freehold land;	11
	(c) land subject to a lease, licence or permit under the Land Act.	12
		13
	'(2) Despite subsection (1)(c), land subject to a lease, licence or permit under the Land Act is available State land if an available State land agreement is in force for the land.'	14
		15
		16
Clause 150	Insertion of new pt 2A	17
	After section 24—	18
	<i>insert—</i>	19
'Part 2A	Formal expression of interest about land	20
		21
'24A	Purpose of pt 2A	22
	'The purpose of this part is to provide for a process under which Torres Strait Islanders may formally express an interest to the chief executive in having particular land made transferable land.	23
		24
		25
		26
'24B	Land to which pt 2A applies	27
	'This part applies to the following land—	28

[s 151]

- (a) available State land; 1
- (b) land dedicated as a reserve under the Land Act; 2
- (c) land subject to an occupation licence; 3
- (d) land held under a lease under the Land Act by or for
Torres Strait Islanders. 4
5

‘24C Expression of interest in having land made transferable land 6
7

- ‘(1) Torres Strait Islanders particularly concerned with land
mentioned in section 24B may, by notice given to the chief
executive (an *expression of interest*), express an interest in
having the land made transferable land. 8
9
10
11
- ‘(2) The expression of interest must— 12
 - (a) be in the approved form; and 13
 - (b) include the details required in the approved form to
enable the chief executive to properly consider the
expression of interest. 14
15
16

‘24D Chief executive to consider expression of interest 17

- ‘(1) The chief executive must consider each expression of interest. 18
- ‘(2) Without limiting subsection (1), the chief executive may
consider an expression of interest by evaluating the land to
which it relates under the Land Act, section 16. 19
20
21

‘24E Consideration of expression of interest does not impose obligation on State 22
23

‘The chief executive’s consideration of an expression of
interest does not impose an obligation on the State under this
Act to make the land to which it relates transferable land.’. 24
25
26

Clause 151 Amendment of s 25 (Deeds of grant to be prepared) 27

- (1) Section 25(1), ‘registrar of titles’— 28

	<i>omit, insert—</i>	1
	‘chief executive’.	2
(2)	Section 25(2), from ‘directs,’—	3
	<i>omit, insert—</i>	4
	‘directs.’.	5
(3)	Section 25(3), ‘grantees—’—	6
	<i>omit, insert—</i>	7
	‘grantee—’.	8
(4)	Section 25(3)(b), after ‘Islanders’—	9
	<i>insert—</i>	10
	‘particularly concerned with the land’.	11
(5)	Section 25(4)—	12
	<i>omit.</i>	13
(6)	Section 25(3A)—	14
	<i>renumber</i> as section 25(4).	15
(7)	Section 25(5), ‘, (3A)’—	16
	<i>omit.</i>	17
Clause 152	Amendment of s 25A (Appointment of registered native title body corporate as grantee to hold land for native title holders)	18
	Section 25A(5)—	19
	<i>omit.</i>	20
Clause 153	Replacement of s 26 (Minister to appoint particular trustees)	23
	Section 26—	24
	<i>omit, insert—</i>	25
		26

[s 153]

‘26	Appointment of grantee to hold land for benefit of Torres Strait Islanders	1 2
‘(1)	This section applies if the Minister does not appoint, under section 25A, a registered native title body corporate as the grantee of land.	3 4 5
‘(2)	The Minister may appoint as grantee of the land—	6
	(a) a CATSI corporation that is qualified to hold the land; or	7
	(b) a land trust.	8
‘(3)	However, the Minister may appoint a CATSI corporation that is a registered native title body corporate as a grantee of land under subsection (2) only if—	9 10 11
	(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and	12 13 14
	(b) the registered native title body corporate is registered on the National Native Title Register for the determination.	15 16
‘(4)	Before making the appointment, the Minister must consult with, and consider the views of, Torres Strait Islanders particularly concerned with the land.	17 18 19
‘(5)	Subsection (4) does not apply if an ILUA has been entered into for the land and the entity is nominated in the ILUA as the proposed grantee for the land under this Act.	20 21 22
‘(6)	However, in considering whether to appoint an entity nominated in an ILUA as the proposed grantee for the land, the Minister may have regard to any matter the Minister considers relevant to the proposed appointment, including, for example—	23 24 25 26 27
	(a) whether any Torres Strait Islanders particularly concerned with the land may be adversely affected by the appointment; and	28 29 30
	(b) if the Minister is satisfied any Torres Strait Islanders particularly concerned with the land will be adversely affected by the appointment—any action the entity	31 32 33

intends to take to address the concerns of the Torres Strait Islanders.	1 2
‘(7) Also, in considering whether to appoint a registered native title body corporate as the proposed grantee for the land, the Minister may have regard to any matter the Minister considers relevant to the proposed appointment, including, for example, the matters mentioned in section 25A(4)(b) and (c).	3 4 5 6 7
‘(8) In appointing a grantee of land under this section, the Minister must have regard to any Island custom applicable to the land.	8 9
‘26AA Procedure for appointing particular grantee	10
‘(1) Before appointing a grantee of land under this part, other than an entity nominated in an ILUA as the proposed grantee for the land, the Minister must—	11 12 13
(a) publish notice of the Minister’s intention to appoint the grantee in a newspaper or other publication circulating generally in the area in which the land the subject of the deed of grant is situated; and	14 15 16 17
(b) consider all representations made to the Minister under subsection (4).	18 19
‘(2) The notice must—	20
(a) include a description of the land; and	21
(b) state the following—	22
(i) the name of the proposed grantee;	23
(ii) that a Torres Strait Islander particularly concerned with the land may make written representations to the Minister about the proposed appointment;	24 25 26
(iii) the place where the representations may be made;	27
(iv) the period in which the representations must be made.	28 29
‘(3) The stated period must end at least 28 days after the notice is published.	30 31

[s 154]

‘(4) A Torres Strait Islander particularly concerned with the land
may make written representations about the proposed
appointment to the Minister within the stated period.’.

Clause 154 Omission of s 26A (Application of Trusts Act 1973)

Section 26A—

omit.

Clause 155 Amendment of s 27 (Minister to act as soon as possible)

(1) Section 27(1), ‘section 26’—

omit, insert—

‘section 25A or 26’.

(2) Section 27(2), ‘section 11(c)’—

omit, insert—

‘section 11(1)(c)’.

(3) Section 27—

insert—

‘(3) However, the Minister need not act as mentioned in
subsections (1) and (2) in relation to land until the Minister is
reasonably satisfied—

(a) arrangements are in place to ensure—

(i) the Commonwealth and the State can continue to
provide services to communities on the land after it
is granted; and

(ii) the local government for the area in which the land
is situated can continue to provide local
government services to communities on the land
after it is granted; and

Example of an arrangement for paragraph (a)—

a lease

- (b) if the land is proposed to be granted to an entity other than a registered native title body corporate, arrangements that the Minister considers necessary—
- (i) to support use of the land by Torres Strait Islanders particularly concerned with it; and
 - (ii) to ensure appropriate services, including, for example, social housing, public works and community infrastructure, can be provided for communities on the land;

are in place to deal with matters relevant to the use of the land after it is granted; and

Example of an arrangement for paragraph (b)—

an ILUA

- (c) if the land is or includes township land, arrangements are in place to provide for—
- (i) the township land to continue to be used as township land; and
 - (ii) residents of the township land to continue to live on and access the land, and obtain tenure over the land under this Act.

Examples of an arrangement for paragraph (c)—

an ILUA, a townsite lease or another lease

‘(4) In this section—

local government services includes any services a local government might ordinarily provide for the community in its local government area.’.

Clause 156 Omission of s 29 (Inclusion of additional areas in deed of grant)

Section 29—

omit.

[s 157]

Clause 157	Amendment of s 30 (Deed of grant takes effect on delivery)	1
		2
(1)	Section 30(1), from ‘issued’—	3
	<i>omit, insert—</i>	4
	‘prepared under this division takes effect on the delivery of the deed to the grantee.’.	5
		6
(2)	Section 30(2), ‘grantees’—	7
	<i>omit, insert—</i>	8
	‘grantee’.	9
Clause 158	Amendment of s 31 (Existing interests)	10
(1)	Section 31(2)(a), from ‘by the Crown’ to ‘1985’—	11
	<i>omit, insert—</i>	12
	‘under the Land Holding Act’.	13
(2)	Section 31(2)—	14
	<i>insert—</i>	15
	‘(c) a trustee (Torres Strait Islander) lease;’.	16
(3)	Section 31(2), ‘grantees of the land are’—	17
	<i>omit, insert—</i>	18
	‘trustee of the land is’.	19
(4)	Section 31(2), ‘for the Crown’—	20
	<i>omit, insert—</i>	21
	‘for the lessor’.	22
(5)	Section 31(3), ‘grantees of the land were the Crown’—	23
	<i>omit, insert—</i>	24
	‘trustee of the land were the lessor’.	25
(6)	Section 31(4)—	26
	<i>renumber</i> as section 31(7).	27

-
- (7) Section 31— 1
insert— 2
- ‘(4) However, subsection (5) applies to an interest in transferable 3
land (the *previous interest*) that, under an available State land 4
agreement, is to cease on the grant of the land under this part 5
and a new interest granted by the trustee of the land is to have 6
effect in substitution for the previous interest on the grant of 7
the land. 8
- ‘(5) Despite subsections (1) to (3), on the grant of the land the 9
previous interest ceases. 10
- ‘(6) Subsection (5) applies despite any other Act.’. 11
- (8) Section 31(7), as renumbered under this section, definition 12
interest, ‘native title interests’— 13
omit, insert— 14
‘native title’. 15

Clause 159 Amendment of s 32 (Interests to be endorsed on deed) 16

- (1) Section 32(1)(a), ‘Crown’— 17
omit, insert— 18
‘State or Commonwealth that is not registered’. 19
- (2) Section 32(1), from ‘of the department’— 20
omit, insert— 21
‘must endorse on the deed, in the proper order of priority— 22
(c) the instruments under which the interest arose; and 23
(d) if the land was previously held under a deed of grant in 24
trust—any existing instruments that were endorsed on 25
the deed of grant in trust.’. 26
- (3) Section 32(2)— 27
omit. 28
- (4) Section 32(3) and (4)— 29

[s 160]

renumber as section 32(2) and (3). 1

(5) Section 32(2), as renumbered under this section, ‘subsection
(2)’— 2
3

omit, insert— 4

‘subsection (1)’. 5

Clause 160 Amendment of s 33 (Cancellation of deed of grant in trust) 6
7

(1) Section 33(1)(a)— 8

omit, insert— 9

‘(a) a community government under the *Local Government
(Community Government Areas) Act 2004* holds title to 10
land under a deed of grant in trust under the Land Act; 11
and’. 12
13

(2) Section 33(2) to (4)— 14

omit. 15

Clause 161 Omission of s 34 (Registrar of titles must take action etc. to resolve difficulties) 16
17

Section 34— 18

omit. 19

Clause 162 Amendment of s 35 (Land Court may resolve difficulties) 20

Section 35(1), ‘registrar of titles’— 21

omit, insert— 22

‘chief executive’. 23

Clause 163 Replacement of pt 3, div 2 (Dealing with transferred land) 24

Part 3, division 2— 25

omit, insert— 26

‘Division 2	Approvals to change how land is held	1 2
‘36	Application to hold Torres Strait Islander land for native title holders	3 4
‘(1)	This section applies if—	5
(a)	a CATSI corporation that is the trustee of Torres Strait Islander land becomes a registered native title body corporate after it became the trustee of the land; and	6 7 8
(b)	under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and	9 10 11
(c)	the registered native title body corporate is registered on the National Native Title Register for the determination.	12 13
‘(2)	The registered native title body corporate may apply to the Minister in the approved form for an approval to hold the land under this Act for the native title holders of the land.	14 15 16
‘37	Decision on application	17
‘(1)	The Minister must consider an application made under section 36 and decide—	18 19
(a)	to give the approval; or	20
(b)	to refuse the application.	21
‘(2)	In considering the application, the Minister must have regard to—	22 23
(a)	whether any Torres Strait Islanders particularly concerned with the land, other than native title holders of the land, may be adversely affected by the approval; and	24 25 26 27
(b)	if the Minister is satisfied Torres Strait Islanders particularly concerned with the land will be adversely affected by the approval—any action the registered	28 29 30

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native title body corporate intends to take to address the concerns of the Torres Strait Islanders.	1 2
‘(3) The Minister may give the approval only if, having regard to the matters mentioned in subsection (2), the Minister is satisfied it is appropriate in the circumstances to give the approval.	3 4 5 6
‘38 Notices about decision	7
‘(1) The Minister must give the registered native title body corporate written notice of the Minister’s decision under section 37.	8 9 10
‘(2) If the Minister gives the approval, the chief executive must notify the approval by gazette notice.	11 12
‘(3) The gazette notice must—	13
(a) state the name of the registered native title body corporate; and	14 15
(b) include a description of the Torres Strait Islander land held by it that relates to the approval.	16 17
‘(4) As soon as practicable after the gazette notice is published, the chief executive must give the registrar of titles written notice of the approval.	18 19 20
‘(5) The notice must include a description of the Torres Strait Islander land held by the registered native title body corporate for the native title holders of the land.	21 22 23
‘(6) On receiving the notice, the registrar must record in the freehold land register that the land is held under this Act by the registered native title body corporate for the native title holders of the land.	24 25 26 27
‘(7) In this section—	28
<i>description</i> , in relation to land, means the description of the land as shown in the freehold land register.	29 30

‘38A	Effect of gazette notice	1
	‘On publication of the gazette notice, the registered native title body corporate is taken to hold the land under this Act for the native title holders of the land.’.	2 3 4
Clause 164	Amendment of s 40 (Reservations of forest products and quarry material etc.)	5 6
	(1) Section 40(2)(b), ‘Crown’—	7
	<i>omit, insert—</i>	8
	‘State’.	9
	(2) Section 40(3), ‘grantees of the land are’—	10
	<i>omit, insert—</i>	11
	‘trustee of the land is’.	12
	(3) Section 40(3), ‘grantees or’—	13
	<i>omit, insert—</i>	14
	‘trustee or’.	15
Clause 165	Replacement of pts 4 and 5	16
	Parts 4 and 5—	17
	<i>omit, insert—</i>	18
‘Part 4	Register of entities holding Torres Strait Islander land	19 20
‘41	Keeping register of entities holding Torres Strait Islander land	21 22
	‘(1) The chief executive must keep a register of entities that hold Torres Strait Islander land (the <i>Torres Strait Islander land holding entity register</i>).	23 24 25
	‘(2) The register must contain the following information for each entity—	26 27

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- (a) the entity’s name, address for the service of documents and contact telephone number; 1
2
- (b) a description of the Torres Strait Islander land held by the entity. 3
4
- ‘(3) If the entity is a land trust, the register also must contain all the following information about the land trust— 5
6
 - (a) the names and addresses of all the current members of the land trust; 7
8
 - (b) the name of each member of the land trust’s executive committee, and the position held by the member; 9
10
 - (c) a contact telephone number for the chairperson and secretary of the land trust; 11
12
 - (d) a copy of the land trust’s adopted rules; 13
 - (e) copies of annual financial statements and audit reports the chief executive receives from the land trust under this Act; 14
15
16
 - (f) a statement about whether or not the land trust has, for each financial year, operated in compliance with the Act. 17
18
19
- Note—* 20
 - Under section 97, the chief executive must record in the register whether or not a land trust has operated in compliance with the Act. 21
22
23
- ‘(4) The chief executive may keep the register in the form the chief executive considers appropriate, including, for example, in electronic form. 24
25
26
- ‘42 **Giving information for register to the chief executive** 27
- ‘(1) Each entity, other than a land trust, that holds Torres Strait Islander land must— 28
29
 - (a) as soon as practicable after the end of each financial year, give to the chief executive the information mentioned in section 41(2) for the entity; and 30
31
32

-
- (b) as soon as practicable after any of the information changes—give the chief executive a written notice of the change. 1
2
3
- ‘(2) A land trust must give to the chief executive all the information the chief executive reasonably requires to ensure the information in the register about the land trust is accurate. 4
5
6
- ‘43 Obtaining information in register 7**
- ‘(1) A person may, in the approved form, ask the chief executive to give the person information included in the Torres Strait Islander land holding entity register. 8
9
10
- ‘(2) The chief executive must, if asked under subsection (1), give the person the information included in the publicly available part of the register. 11
12
13
- ‘(3) The chief executive may, if asked under subsection (1), give the person the additional information for a land trust only if the chairperson of the land trust consents in writing to the giving of the information. 14
15
16
17
- ‘(4) In this section— 18
- additional information*, for a land trust, means the following— 19
20
- (a) the names of all the current members of the land trust; 21
- (b) the information mentioned in section 41(3)(b), (d) or (e). 22
23
- publicly available part*, of the Torres Strait Islander land holding entity register, means the part of the register containing all the following information— 24
25
26
- (a) the information mentioned in section 41(2); 27
- (b) for a land trust— 28
- (i) the names of the chairperson and secretary of the land trust; and 29
30
- (ii) the information mentioned in section 41(3)(f). 31

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‘Part 4A	Transfer of Torres Strait Islander land by Minister	1 2
‘Division 1	Preliminary	3
‘44	Purpose of pt 4A	4
	‘The purpose of this part is to provide for—	5
	(a) particular Torres Strait Islander land to vest in the State; and	6 7
	(b) the transfer of Torres Strait Islander land that vests in the State to another entity to hold as Torres Strait Islander land.	8 9 10
‘45	Application of pt 4A	11
	‘This part applies to Torres Strait Islander land that is or was held by a CATSI corporation for the benefit of Torres Strait Islanders particularly concerned with the land and their ancestors and descendants, if—	12 13 14 15
	(a) under the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Cwlth)—	16 17
	(i) the corporation stops being registered; and	18
	(ii) the land is vested in the State; or	19
	(b) the corporation is no longer qualified to hold the land.	20
‘Division 2	Vesting and transfer of land	21
‘46	Vesting of land in the State	22
	‘(1) If the CATSI corporation is no longer qualified to hold the land, the Minister may, by gazette notice, declare that the land vests in the State.	23 24 25

‘(2) The gazette notice must—	1
(a) include a description of the land; and	2
(b) state the reason that the CATSI corporation is no longer qualified to hold the land.	3 4
‘47 How land is held by the State	5
‘(1) This section applies if—	6
(a) the land vests in the State under the <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i> (Cwlth); or	7 8 9
(b) the land vests in the State under section 46.	10
‘(2) The land—	11
(a) vests in the State in fee simple; and	12
(b) the State holds the land for the benefit of the persons for whose benefit the land was held immediately before it vested in the State.	13 14 15
‘48 Minister to transfer land as soon as practicable	16
‘(1) The Minister must, by gazette notice as soon as practicable after the land vests in the State, transfer the land under this part.	17 18 19
‘(2) The gazette notice must include—	20
(a) a description of the land being transferred; and	21
(b) the name of the entity to whom the land is transferred.	22
‘49 Transfer to registered native title body corporate to hold for native title holders	23 24
‘(1) This section applies if—	25
(a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and	26 27 28

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- (b) there is a registered native title body corporate for the determination. 1
2
- ‘(2) The Minister may, with the consent of the registered native title body corporate, transfer the land to it. 3
4
- ‘(3) If the Minister transfers the land under this section to a registered native title body corporate, the body corporate holds the land for the native title holders of the land the subject of the determination mentioned in subsection (1)(a). 5
6
7
8
- ‘(4) In considering whether to transfer the land to a registered native title body corporate, the Minister may have regard to any matter the Minister considers relevant to the proposed transfer, including, for example— 9
10
11
12
- (a) whether any Torres Strait Islanders particularly concerned with the land, other than the native title holders of the land, may be adversely affected by the proposed transfer; and 13
14
15
16
- (b) if the Minister is satisfied any Torres Strait Islanders particularly concerned with the land will be adversely affected by the proposed transfer—any action the registered native title body corporate intends to take to address the concerns of the Torres Strait Islanders. 17
18
19
20
21
- ‘50 Transfer to entity to hold for benefit of Torres Strait Islanders 22
23**
- ‘(1) This section applies if the Minister does not transfer the land under section 49 to a registered native title body corporate. 24
25
- ‘(2) The Minister may transfer the land to— 26
- (a) a CATSI corporation that is qualified to hold the land; or 27
- (b) a land trust. 28
- ‘(3) However, the Minister may transfer the land to a CATSI corporation that is a registered native title body corporate under subsection (2) only if— 29
30
31

-
- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
- (b) the registered native title body corporate is registered on the National Native Title Register for the determination.
- ‘(4) Before transferring the land, the Minister must consult with, and consider the views of, the Torres Strait Islanders particularly concerned with the land.
- ‘(5) Also, in considering whether to transfer the land to a registered native title body corporate, the Minister may have regard to any matter the Minister considers relevant to the proposed transfer, including, for example—
- (a) whether any Torres Strait Islanders particularly concerned with the land may be adversely affected by the proposed transfer; and
- (b) if the Minister is satisfied any Torres Strait Islanders particularly concerned with the land will be adversely affected by the proposed transfer—any action the registered native title body corporate intends to take to address the concerns of the Torres Strait Islanders.
- ‘(6) In deciding to transfer land under this section, the Minister must have regard to any Island custom applicable to the land.
- ‘(7) If the land is transferred under this section, the entity to whom the land is transferred holds the land for the benefit of the persons for whose benefit the land was held immediately before it was transferred.
- ‘51 Procedure for transferring land**
- ‘(1) Before transferring the land, the Minister must—
- (a) publish notice of the Minister’s intention to transfer the land in a newspaper or other publication circulating generally in the area in which the land is situated; and
- (b) consider all representations made to the Minister under subsection (4).

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‘(2) The notice must—	1
(a) include a description of the land; and	2
(b) state the following—	3
(i) the name of the proposed transferee;	4
(ii) that a Torres Strait Islander particularly concerned with the land may make written representations to the Minister about the proposed transfer;	5 6 7
(iii) the place where the representations may be made;	8
(iv) the period in which the representations must be made.	9 10
‘(3) The stated period must end at least 28 days after the notice is published.	11 12
‘(4) A person mentioned in subsection (2)(b)(ii) may make written representations about the proposed transfer to the Minister within the stated period.	13 14 15
‘52 Effect of gazette notice about transfer	16
‘The transfer of the land under this part has effect on publication of the gazette notice about the transfer under section 48.	17 18 19
‘Division 3 Notices to registrar	20
‘53 Notice about land	21
‘(1) If land vests in the State or is transferred under this part, the chief executive must give the registrar written notice of the vesting or transfer.	22 23 24
‘(2) The notice must include particulars of the land the subject of the vesting or transfer.	25 26
‘(3) On receiving the notice, the registrar must record in the freehold land register the vesting or transfer.	27 28

‘Part 4B	General provisions for dealing with Torres Strait Islander land	1 2
‘Division 1	Trustees power to deal with Torres Strait Islander land and Ministerial consent	3 4 5
‘54	Power to deal with Torres Strait Islander land	6
	‘Subject to this part and part 4C, the trustee of Torres Strait Islander land may—	7 8
	(a) grant, transfer or otherwise create an interest in, or in relation to, the land in the way the trustee considers appropriate, including, for example, by—	9 10 11
	(i) granting a lease or licence over all or a part of the land; or	12 13
	(ii) consenting to the creation of a mining interest in the land; or	14 15
	(iii) granting an easement over the land; or	16
	(iv) entering into a conservation agreement under the <i>Nature Conservation Act 1992</i> , section 45, for the land; or	17 18 19
	(v) entering into an agreement with the State or the Commonwealth in relation to the getting and sale of forest products or quarry material above, on or below the land; or	20 21 22 23
	(b) dedicate a part of the land to public use by registering a plan of subdivision under the Land Title Act, part 4, division 3; or	24 25 26
	(c) surrender all or a part of the land to the State.	27

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‘54A Requirement for consultation	1
‘(1) The trustee of Torres Strait Islander land must not deal with the land unless—	2 3
(a) the trustee has explained to the Torres Strait Islanders particularly concerned with the land the nature, purpose and effect of the dealing; and	4 5 6
(b) the Torres Strait Islanders are given a suitable opportunity to express their views on, and are generally in agreement with, the dealing.	7 8 9
‘(2) Despite section 60A, dealing with land in contravention of subsection (1) is not void under that section.	10 11
‘(3) In this section—	12
<i>deal</i> , with land, means—	13
(a) grant a lease, other than under section 61(1)(a)(i) for private residential purposes, for more than 10 years over the land; or	14 15 16
(b) grant a licence for the use of the land for more than 10 years; or	17 18
(c) grant or otherwise create an interest in, or in relation to, the land, other than—	19 20
(i) a residential tenancy; or	21
(ii) a lease or licence for the use of the land for not more than 10 years; or	22 23
(iii) a lease under section 61(1)(a)(i) for private residential purposes; or	24 25
(d) dedicate a part of the land to public use; or	26
(e) surrender any of the land to the State.	27
<i>trustee</i> , of Torres Strait Islander land, does not include a registered native title body corporate.	28 29

‘54B Provision about Minister’s consent	1
‘(1) Subsection (2) applies if the Minister’s prior written consent is required for the grant of a lease or licence by the trustee of Torres Strait Islander land, or for the creation of an interest under a lease or licence.	2 3 4 5
‘(2) The Minister’s consent may be given for—	6
(a) the grant of a particular lease or licence, or a particular type of lease or licence; or	7 8
(b) the creation of a particular interest under a lease or licence, or a particular type of interest; or	9 10
(c) if the Minister considers it appropriate—	11
(i) all leases or licences, or all leases or licences of a particular type, that may be granted by the trustee; or	12 13 14
(ii) the creation of all interests, or all interests of a particular type, that may be created under a lease or licence.	15 16 17
‘(3) Subsection (4) applies if the Minister’s prior written consent is required for the grant of a townsite sublease or licence by the lessee of a townsite lease, or for the creation of an interest under a townsite sublease or licence.	18 19 20 21
‘(4) The Minister’s consent may be given for—	22
(a) the grant of a particular townsite sublease or licence, or a particular type of townsite sublease or licence; or	23 24
(b) the creation of a particular interest under a townsite sublease or licence, or a particular type of interest; or	25 26
(c) if the Minister considers it appropriate—	27
(i) all townsite subleases or licences, or all townsite subleases or licences of a particular type, that may be granted by the lessee; or	28 29 30
(ii) the creation of all interests, or all interests of a particular type, that may be created under a townsite sublease or licence.	31 32 33

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‘Division 2	Sale or mortgage prohibited	1
‘55	Prohibition on sale or mortgage of Torres Strait Islander land	2 3
	‘The trustee of Torres Strait Islander land must not sell or mortgage the land.	4 5
‘Division 3	Grant of licences	6
‘56	Grant of licence for Torres Strait Islander land	7
‘(1)	The trustee of Torres Strait Islander land may grant a licence for the use of all or a part of the land only—	8 9
	(a) to a Torres Strait Islander for not more than 30 years; or	10
	(b) to the State for not more than 30 years; or	11
	(c) to another person—	12
	(i) for not more than 10 years; or	13
	(ii) with the Minister’s prior written consent, for more than 10 years but not more than 30 years.	14 15
‘(2)	The lessee of the townsite lease may grant a licence for the use of all or a part of the lease land only—	16 17
	(a) to a Torres Strait Islander for not more than 30 years; or	18
	(b) to the State for not more than 30 years; or	19
	(c) to another person—	20
	(i) for not more than 10 years; or	21
	(ii) with the Minister’s prior written consent, for more than 10 years but not more than 30 years.	22 23
‘56A	Conditions of licences	24
‘(1)	A licence granted under section 56(1)(a) or (2)(a) is subject to the condition that an interest may be created under the licence	25 26

in favour of a person who is not a Torres Strait Islander only if—	1 2
(a) the interest is in favour of the spouse, or former spouse, of a Torres Strait Islander or of a Torres Strait Islander who is deceased; or	3 4 5
(b) the interest is—	6
(i) for not more than 10 years; or	7
(ii) created with the Minister’s prior written consent.	8
‘(2) A licence granted under section 56(1)(b) or (c) or (2)(b) or (c) is subject to the condition that an interest can not be created under the licence.	9 10 11
‘(3) A licence granted under section 56(1) or (2) can not be renewed or transferred.	12 13
‘Division 4 Transfer of Torres Strait Islander land by trustee	14 15
‘Subdivision 1 Land held by land trust	16
‘57 Application of sdiv 1	17
‘This subdivision applies to Torres Strait Islander land held by a land trust.	18 19
‘57A Transfer of Torres Strait Islander land	20
‘(1) The trustee of the Torres Strait Islander land (the <i>transferor</i>) may transfer all or a part of the land only—	21 22
(a) with the Minister’s written approval; and	23
(b) to either of the following entities (the <i>transferee</i>)—	24
(i) another land trust;	25
(ii) a CATSI corporation that is qualified to hold the land.	26 27

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- ‘(2) However, the trustee may transfer all or a part of the land to a CATSI corporation that is a registered native title body corporate only if—
- (a) under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and
 - (b) the registered native title body corporate is registered on the National Native Title Register for the determination.
- ‘(3) If a trustee transfers land under this subdivision—
- (a) all improvements on the land must be transferred with the land; and
 - (b) for a transferee that is a registered native title body corporate—the transferee holds the land for—
 - (i) the native title holders of the land, if the transferor and the transferee agree it is to be held for the native title holders; or
 - (ii) the benefit of Torres Strait Islanders particularly concerned with the land and their ancestors and descendants, if subparagraph (i) does not apply to the transfer; and
 - (c) for a transferee that is not a registered native title body corporate—the transferee holds the land for the benefit of the Torres Strait Islanders particularly concerned with the land and their ancestors and descendants; and
 - (d) if all the Torres Strait Islander land held by the trustee is transferred to the transferee—
 - (i) the land trust for the land that is transferred is dissolved; and
 - (ii) all the assets and liabilities of the trustee become the assets and liabilities of the transferee; and
 - (e) if paragraph (c) does not apply—the assets and liabilities of the trustee mentioned in section 57C(1)(a)(ii) become the assets and liabilities of the transferee.

‘57B Application for approval to transfer	1
‘(1) The trustee of the Torres Strait Islander land may apply to the Minister for an approval to transfer all or a part of the land.	2 3
‘(2) The application must—	4
(a) be in the approved form; and	5
(b) if the transferee is a land trust—be accompanied by evidence satisfactory to the Minister of each matter mentioned in section 57C(1)(a) or (b) that applies to the transfer; and	6 7 8 9
(c) if the transferee is a CATSI corporation—be accompanied by evidence satisfactory to the Minister of the matters mentioned in section 57C(1)(c).	10 11 12
‘57C Minister’s approval to transfer	13
‘(1) The Minister may give an approval to transfer the land only if satisfied—	14 15
(a) at least 75% of the transferor’s members present at a general meeting of the transferor, agree to the transfer of—	16 17 18
(i) the land; and	19
(ii) the assets and liabilities of the transferor that will become the assets and liabilities of the transferee; and	20 21 22
(b) if the transferee is a land trust—at least 75% of the transferee’s members present at a general meeting of the transferee, agree to the transfer of—	23 24 25
(i) the land; and	26
(ii) the assets and liabilities of the transferor that will become the assets and liabilities of the transferee; and	27 28 29
(c) if the transferee is a CATSI corporation—	30
(i) the transferee agrees to the transfer; and	31

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- (ii) the transferee is qualified to hold the land; and 1
 - (d) it is appropriate in the circumstances to transfer the land. 2
 - ‘(2) If the Minister gives an approval to transfer the land, the chief 3
executive must notify the approval by gazette notice. 4
 - ‘(3) The gazette notice must— 5
 - (a) include all of the following— 6
 - (i) the name of the transferor; 7
 - (ii) a description of the land being transferred; 8
 - (iii) details of each registered interest in the land being 9
transferred; 10
 - (iv) a description of all Torres Strait Islander land, if 11
any, that will be held by the transferor after the 12
transfer; 13
 - (v) the name of the transferee; 14
 - (vi) a description of all Torres Strait Islander land that 15
will be held by the transferee after the transfer; and 16
 - (b) if the transferor is a land trust that is dissolved under 17
section 57A(3)(d)(i) because of the transfer—state the 18
land trust will be dissolved. 19
 - ‘(4) In this section— 20
 - description*, in relation to land, means the description of the 21
land as shown in the freehold land register. 22
 - registered interest* means an interest registered under the 23
Land Title Act. 24
- ‘57D **Effect of gazette notice about transfer** 25
 - ‘On publication of the gazette notice the Torres Strait Islander 26
land proposed to be transferred may be transferred to the 27
transferee. 28

‘Subdivision 2	Land held by CATSI corporation	1
‘58	Application of sdiv 2	2
‘(1)	This subdivision applies to Torres Strait Islander land held by a CATSI corporation.	3 4
‘(2)	However, this subdivision does not apply to a transfer of Torres Strait Islander land from a registered native title body corporate (the <i>original body corporate</i>) to another registered native title body corporate that, under the Commonwealth Native Title Act, replaces the original body corporate.	5 6 7 8 9
‘58A	Transfer of Torres Strait Islander land	10
‘(1)	The trustee of the Torres Strait Islander land (the <i>transferor</i>) may transfer all or a part of the land only—	11 12
(a)	with the Minister’s written approval; and	13
(b)	to another CATSI corporation that is qualified to hold the land (the <i>transferee</i>).	14 15
‘(2)	However, the trustee may transfer all or a part of the land to a CATSI corporation that is a registered native title body corporate only if—	16 17 18
(a)	under the Commonwealth Native Title Act, a determination has been made that native title exists in relation to all or a part of the land; and	19 20 21
(b)	the registered native title body corporate is registered on the National Native Title Register for the determination.	22 23
‘(3)	The transferee holds the land for—	24
(a)	the native title holders of the land, if—	25
(i)	the transferee is a registered native title body corporate; and	26 27
(ii)	the transferor and the transferee agree it is to be held for the native title holders; or	28 29

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(b)	otherwise—the benefit of the Torres Strait Islanders particularly concerned with the land and their ancestors and descendants.	1 2 3
‘58B	Application for approval to transfer	4
‘(1)	The trustee of the Torres Strait Islander land may apply to the Minister for an approval to transfer all or a part of the land.	5 6
‘(2)	The application must be in the approved form.	7
‘58C	Minister’s approval to transfer	8
‘(1)	The Minister may give an approval to transfer the land only if satisfied—	9 10
(a)	the transferee agrees to the transfer; and	11
(b)	the transferee is qualified to hold the land; and	12
(c)	it is appropriate in the circumstances to transfer the land.	13
‘(2)	If the Minister gives an approval to transfer the land, the chief executive must notify the approval by gazette notice.	14 15
‘(3)	The gazette notice must include all of the following—	16
(a)	the name of the transferor;	17
(b)	a description of the land being transferred;	18
(c)	the name of the transferee.	19
‘(4)	In this section—	20
	<i>description</i> , in relation to land, means the description of the land as shown in the freehold land register.	21 22
‘58D	Effect of gazette notice about transfer	23
	‘On publication of the gazette notice the Torres Strait Islander land proposed to be transferred may be transferred to the transferee.	24 25 26

‘Subdivision 3	Exemption from fees and charges	1
‘59	Exemption	2
	‘If a trustee of Torres Strait Islander land transfers all or a part of the land under this division, no fee or charge is payable by the trustee or the entity to whom the land is transferred in relation to lodgement and registration of any instrument in the land registry to give effect to the transfer.	3 4 5 6 7
‘Division 5	Other matters	8
‘60	Trustee to advise chief executive of change to description of land	9 10
	‘If a trustee deals with Torres Strait Islander land held by the trustee in a way that changes the description of the land as shown in the freehold land register, the trustee must as soon as practicable after the dealing happens give the chief executive written notice of the change.	11 12 13 14 15
‘60A	Particular dealings in Torres Strait Islander land void	16
	‘(1) A grant, transfer or other creation of an interest in Torres Strait Islander land in contravention of this division is void.	17 18
	‘(2) Subsection (1) does not apply to a registered interest.	19
‘60B	Provision about resumption of Torres Strait Islander land etc.	20 21
	‘(1) An interest in Torres Strait Islander land can not be resumed, taken or otherwise compulsorily acquired, sold or dealt with other than under the Acquisition Act by a constructing authority.	22 23 24 25
	‘(2) However, an interest in Torres Strait Islander land may be taken under the Acquisition Act only for a relevant purpose.	26 27

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‘(3)	To remove any doubt, it is declared that, for taking an interest in Torres Strait Islander land under the Acquisition Act, the Torres Strait Islander land is land as defined in that Act.	1 2 3
‘(4)	Subsection (1) has effect despite any other Act (whether enacted before or after the enactment of this section).	4 5
‘(5)	In this section—	6
	<i>relevant purpose</i> means any purpose for which land may be taken under the Acquisition Act by a constructing authority, other than a purpose under—	7 8 9
(a)	the <i>Geothermal Energy Act 2010</i> ; or	10
(b)	the <i>Greenhouse Gas Storage Act 2009</i> ; or	11
(c)	the <i>Petroleum and Gas (Production and Safety) Act 2004</i> ; or	12 13
(d)	the <i>State Development and Public Works Organisation Act 1971</i> .	14 15
‘Part 4C	Leasing of Torres Strait Islander land	16 17
‘Division 1	Grant of leases for Torres Strait Islander land	18 19
‘61	Grant of lease for Torres Strait Islander land	20
‘(1)	The trustee of Torres Strait Islander land may grant a lease over all or a part of the land only if—	21 22
(a)	the lease is for not more than 99 years and is granted to—	23 24
(i)	a Torres Strait Islander; or	25
(ii)	the State; or	26

(iii) another person; or	1
(b) the lease is a perpetual lease granted to a local government over land that is township land.	2 3
‘(2) A lease mentioned in subsection (1)(a) is a <i>standard lease</i> .	4
‘(3) A lease mentioned in subsection (1)(b) is a <i>townsite lease</i> .	5
‘(4) Despite subsection (1)(a)(i)—	6
(a) a person who is not a Torres Strait Islander may be a party to a lease granted under the subsection if—	7 8
(i) the lease is for private residential purposes; and	9
(ii) the person is the spouse of a Torres Strait Islander; and	10 11
(b) a lease may be granted under the subsection for private residential purposes to a person who is not a Torres Strait Islander if the person is the spouse, or former spouse, of a Torres Strait Islander or of a Torres Strait Islander who is deceased.	12 13 14 15 16
‘Division 2 Standard leases	 17
‘Subdivision 1 Restrictions on grant of standard leases	 18 19
‘62 Restrictions on grant of standard lease to a Torres Strait Islander	 20 21
‘(1) This section applies to a standard lease under section 61(1)(a)(i).	22 23
‘(2) If the lease is for more than 30 years it may be granted only—	24
(a) for private residential purposes; or	25
(b) with the Minister’s prior written consent, for another purpose.	26 27

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<i>Examples of another purpose for paragraph (b)—</i>	1
a commercial purpose or providing public infrastructure	2
‘(3) The Minister may consent to the grant of the lease for another purpose under subsection (2)(b) only if—	3
(a) having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and	4
(b) for a lease for more than 30 years and for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.	5
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<i>Note—</i>	11
For a lease for more than 30 years and for a commercial purpose, also see section 63A.	12
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‘62A Restrictions on grant of standard lease to State	14
‘(1) This section applies to a standard lease under section 61(1)(a)(ii).	15
	16
‘(2) If the standard lease is for more than 30 years it may be granted only—	17
	18
(a) for a following purpose—	19
(i) a purpose under the <i>Housing Act 2003</i> ;	20
(ii) providing public infrastructure;	21
(iii) providing residential accommodation for public service employees or police officers; or	22
(b) with the Minister’s prior written consent, for another purpose.	23
	24
	25
<i>Example of another purpose for paragraph (b)—</i>	26
a commercial purpose	27
‘(3) The Minister may consent to the grant of the lease for another purpose under subsection (2)(b) only if—	28
	29

(a)	having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and	1 2 3
(b)	for a lease for more than 30 years and for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.	4 5 6
‘62B	Restrictions on grant of standard lease to another person	7 8
‘(1)	This section applies to a standard lease under section 61(1)(a)(iii).	9 10
‘(2)	The lease may be granted for a private residential purpose only if the lease supports a standard lease granted to the person for a commercial purpose.	11 12 13
‘(3)	If the lease is for more than 10 years it may be granted only with the Minister’s prior written consent unless the lease is for—	14 15 16
(a)	a commercial purpose and for not more than 30 years; or	17
(b)	a private residential purpose to support a lease for a commercial purpose.	18 19
‘(4)	The Minister may consent to the grant of the lease only if—	20
(a)	having regard to the nature of the lease, the Minister is satisfied the grant of the lease is for the benefit of persons for whom the trustee holds the land; and	21 22 23
(b)	for a lease for more than 30 years and for a commercial purpose—the lease is granted over an entire lot as shown in the appropriate register.	24 25 26

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‘Subdivision 2	Requirements for Minister’s consent	1 2
‘63	General requirements for Minister’s consent	3
‘(1)	A person seeking the Minister’s consent to the grant of a standard lease must give the Minister the information or documents reasonably required by the Minister to show—	4 5 6
	(a) the purpose of the lease; and	7
	(b) that the grant of the lease is for the benefit of persons for whom the trustee holds the land; and	8 9
	(c) if the lease is for more than 30 years—that the grant of the lease is appropriate in the circumstances.	10 11
‘(2)	Also, a person seeking the Minister’s consent to the grant of a standard lease for more than 30 years for a commercial purpose must give the Minister—	12 13 14
	(a) a business plan outlining the details of the commercial purpose of the lease, including, for example, financial details about any proposed development under the lease; and	15 16 17 18
	(b) evidence to show that an appropriate return on the investment for the commercial purpose can not be obtained under a lease for not more than 30 years; and	19 20 21
	(c) other information or documents reasonably required by the Minister to show the purpose of the lease.	22 23
‘(3)	In considering whether to give consent to the grant of a standard lease, the Minister—	24 25
	(a) must have regard to the information or documents given to the Minister under subsection (1) or (2); and	26 27
	(b) may have regard to other information the Minister considers relevant to the proposed lease.	28 29
‘(4)	Before giving consent to the grant of a standard lease for more than 30 years, the Minister must be satisfied—	30 31

(a)	the trustee has complied with section 54A(1)(a) for the lease; and	1 2
(b)	the Torres Strait Islanders particularly concerned with the lease land are generally in agreement with the grant of the lease.	3 4 5
‘63A	Requirement for Minister’s consent for standard lease for commercial purpose	6 7
‘(1)	Before the Minister consents to the grant of a standard lease for more than 30 years for a commercial purpose, the Minister must—	8 9 10
(a)	obtain an independent assessment of—	11
(i)	the business plan and evidence given to the Minister under section 63(2)(a) and (b); and	12 13
(ii)	the proposed lessee’s financial and managerial capabilities; and	14 15
(b)	be satisfied, having regard to the independent assessment, that—	16 17
(i)	any proposed development under the lease will be commercially viable; and	18 19
(ii)	the evidence given under section 63(2)(b) satisfactorily shows that an appropriate return on the investment for the purpose of the lease can not be obtained under a lease for not more than 30 years; and	20 21 22 23 24
(iii)	the proposed lessee’s financial and managerial capabilities are appropriate for carrying out any proposed development under the lease.	25 26 27
‘(2)	The proposed lessee must pay the cost of the independent assessment.	28 29
‘(3)	The cost is not refundable.	30

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‘63B Requirement for Minister’s consent for creation of interest under a standard lease	1 2
‘(1) This section applies if, under section 72, an interest under a standard lease may be created only with the Minister’s written consent.	3 4 5
‘(2) The Minister may consent to the creation of the interest only if—	6 7
(a) having regard to the nature of the interest, the Minister is satisfied the creation of the interest is for the benefit of persons for whom the trustee holds the lease land; and	8 9 10
(b) if the lease is for more than 30 years—	11
(i) the interest is consistent with the purpose for which the lease was granted; or	12 13
(ii) the interest would not diminish the purpose for which the lease was granted.	14 15
‘(3) A person seeking the Minister’s consent must give the Minister the information or documents relevant to the proposed interest reasonably required by the Minister, including, for example, information or documents to show that the creation of the interest is for the benefit of persons for whom the trustee holds the lease land.	16 17 18 19 20 21
‘Division 3 Townsite leases	22
‘Subdivision 1 Restriction on grant of townsite leases	23 24
‘64 Minister’s consent for grant of townsite lease	25
‘(1) A townsite lease may be granted only with the Minister’s prior written consent.	26 27
‘(2) The Minister may consent to the grant of a townsite lease only if—	28 29

(a)	the lease is granted over an entire lot as shown in the appropriate register; and	1 2
(b)	the Minister is satisfied that any existing interests in the land that is to be a town site under the lease are not inconsistent with the lease.	3 4 5
'Subdivision 2	Requirements for Minister's consent	6 7
'65	General requirements for Minister's consent	8
(1)	A person seeking the Minister's consent to the grant of a townsite lease must give the Minister the information or documents reasonably required by the Minister to show—	9 10 11
(a)	the purpose of the lease; and	12
(b)	the grant of the lease is for the benefit of persons for whom the trustee holds the lease land; and	13 14
(c)	the grant of the lease—	15
(i)	will facilitate the continued operation of a township on the lease land; and	16 17
(ii)	will not prevent residents of the township land from continuing to live on and access the land, or from obtaining tenure over the land under this Act.	18 19 20
(2)	In considering whether to give consent to the grant of a townsite lease, the Minister—	21 22
(a)	must have regard to the information or documents given to the Minister under subsection (1); and	23 24
(b)	may have regard to other information the Minister considers relevant to the proposed lease.	25 26
(3)	Before giving consent to the grant of a townsite lease, the Minister must be satisfied—	27 28
(a)	the trustee has complied with section 54A(1)(a) for the lease; and	29 30

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(b)	the Torres Strait Islanders particularly concerned with the lease land are generally in agreement with the grant of the lease; and	1 2 3
(c)	the grant of the lease—	4
(i)	will facilitate the continued operation of a township on the lease land; and	5 6
(ii)	will not prevent residents of the township land from continuing to live on and access the land, or from obtaining tenure over the land under this Act.	7 8 9
‘Subdivision 3	Provisions about dealings with townsite leases	10 11
‘66	Transfer or amendment of townsite lease	12
‘(1)	A townsite lease must not be transferred or amended without—	13 14
(a)	the agreement of both the trustee and the lessee of the lease land; and	15 16
(b)	the Minister’s prior written consent.	17
‘(2)	A person seeking the Minister’s consent to the transfer or amendment of a townsite lease must give the Minister the information or documents relevant to the proposed transfer or amendment reasonably required by the Minister.	18 19 20 21
‘(3)	In considering whether to consent to the transfer of a townsite lease, the Minister must consider whether the proposed transferee can comply with the conditions of the lease.	22 23 24
‘(4)	The Minister may consent to the amendment of a townsite lease only if satisfied—	25 26
(a)	the amendment does not significantly change the conditions of the townsite lease; and	27 28
(b)	the amendment will not diminish the purpose of the lease.	29 30

‘(5)	A townsite lease must not be transferred to a person who, under this Act, would not be entitled to a grant of the lease.	1 2
‘66A	Townsite lease and transfer, amendment or surrender of lease to be registered	3 4
‘(1)	A townsite lease, and any transfer, amendment or surrender of a townsite lease, must be registered.	5 6
‘(2)	Despite the Land Title Act, section 65(2) the instrument of lease for a townsite lease must include a plan of survey identifying the lease land.	7 8 9
‘66B	Surrender of townsite lease	10
	‘A townsite lease must not be surrendered without the Minister’s prior written consent.	11 12
‘66C	No forfeiture of townsite lease	13
	‘A townsite lease can not be forfeited.	14
‘Subdivision 4	Effect of townsite lease on existing interests	15 16
‘67	Lessee of townsite lease taken to be lessor of existing leases	17 18
‘(1)	Subsection (2) applies if a townsite lease is granted over Torres Strait Islander land that is, immediately before the grant of the lease, the subject of a following lease (each a <i>continued lease</i>)—	19 20 21 22
	(a) a lease granted under the Land Holding Act; or	23
	(b) a lease under the Land Act; or	24
	(c) a trustee (Torres Strait Islander) lease.	25

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‘(2)	On the grant of the townsite lease, the lessee for the townsite lease is substituted for the lessor as a party to the continued lease.	1 2 3
	<i>Note—</i>	4
	Under section 31(2) the trustee of the Torres Strait Islander land is the lessor of the continued lease.	5 6
‘(3)	Section 31(3) applies for the continued lease as if the reference in that subsection to the trustee of the land were a reference to the lessee of the townsite lease.	7 8 9
‘Division 4	Townsite subleases	10
‘Subdivision 1	Grant of subleases under townsite lease	11 12
‘68	Grant of sublease	13
‘(1)	The lessee of a townsite lease may grant a sublease (a <i>townsite sublease</i>) over all or a part of the lease land.	14 15
‘(2)	A townsite sublease may not be granted for more than 99 years and may be granted only to—	16 17
	(a) a Torres Strait Islander; or	18
	(b) the State; or	19
	(c) another person.	20
‘(3)	Despite subsection (2)(a)—	21
	(a) a person who is not a Torres Strait Islander may be a party to a sublease granted under the subsection if—	22 23
	(i) the sublease is for private residential purposes; and	24
	(ii) the person is the spouse of a Torres Strait Islander; and	25 26
	(b) a sublease may be granted under the subsection for private residential purposes to a person who is not a	27 28

Torres Strait Islander if the person is the spouse, or former spouse, of a Torres Strait Islander or of a Torres Strait Islander who is deceased.	1 2 3
‘Subdivision 2 Requirements about grant of subleases under townsite lease	4 5
‘69 Restrictions on grant of townsite sublease to a Torres Strait Islander	6 7
‘(1) This section applies to a townsite sublease under section 68(2)(a).	8 9
‘(2) If the sublease is for more than 30 years, it may be granted only—	10 11
(a) for private residential purposes; or	12
(b) with the Minister’s prior written consent, for another purpose.	13 14
<i>Examples of another purpose for paragraph (b)—</i>	15
a commercial purpose or providing public infrastructure	16
‘(3) The Minister may consent to the grant of the sublease for another purpose under subsection (2)(b) only if—	17 18
(a) having regard to the nature of the sublease, the Minister is satisfied the grant of the sublease would not diminish the purpose for which the townsite lease was granted; and	19 20 21 22
(b) for a townsite sublease for more than 30 years and for a commercial purpose—the sublease is granted over an entire lot as shown in the appropriate register.	23 24 25
<i>Note—</i>	26
For a lease for more than 30 years and for a commercial purpose, also see section 70A.	27 28

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‘69A	Restrictions on grant of townsite sublease to State	1
‘(1)	This section applies to a townsite sublease under section 68(2)(b).	2 3
‘(2)	If the sublease is for more than 30 years it may be granted only—	4 5
(a)	for a following purpose—	6
(i)	a purpose under the <i>Housing Act 2003</i> ;	7
(ii)	providing public infrastructure;	8
(iii)	providing residential accommodation for public service employees or police officers; or	9 10
(b)	with the Minister’s prior written consent, for another purpose.	11 12
	<i>Example of another purpose for paragraph (b)—</i>	13
	a commercial purpose	14
‘(3)	The Minister may consent to the grant of the sublease for another purposes under subsection (2)(b) only if—	15 16
(a)	having regard to the nature of the sublease, the Minister is satisfied the grant of the sublease would not diminish the purpose for which the townsite lease was granted; and	17 18 19 20
(b)	for a townsite sublease for more than 30 years and for a commercial purpose—the sublease is granted over an entire lot as shown in the appropriate register.	21 22 23
‘69B	Restrictions on grant of townsite sublease to another person	24 25
‘(1)	This section applies to a townsite sublease under section 68(2)(c).	26 27
‘(2)	The sublease may be granted for a private residential purpose only if the sublease supports a sublease granted to the person for a commercial purpose.	28 29 30

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- ‘(3) If the townsite sublease is for more than 10 years it may be granted only with the Minister’s prior written consent unless the sublease is for—
- (a) a commercial purpose and for not more than 30 years; or
 - (b) a private residential purpose to support a sublease for a commercial purpose.
- ‘(4) The Minister may consent to the grant of the townsite sublease only if—
- (a) having regard to the nature of the sublease, the Minister is satisfied the grant of the sublease would not diminish the purpose for which the townsite lease was granted; and
 - (b) for a townsite sublease for more than 30 years and for a commercial purpose—the sublease is granted over an entire lot as shown in the appropriate register.
- ‘Subdivision 3 Requirements for Minister’s consent**
- ‘70 General requirements for Minister’s consent**
- ‘(1) A person seeking the Minister’s consent to the grant of a townsite sublease must give the Minister the information or documents reasonably required by the Minister to show—
- (a) the purpose of the sublease; and
 - (b) the sublease will not diminish the purpose for which the townsite lease was granted; and
 - (c) if the sublease is for more than 30 years—that the grant of the sublease is appropriate in the circumstances.
- ‘(2) Also, a person seeking the Minister’s consent to the grant of a townsite sublease for more than 30 years for a commercial purpose must give the Minister—
- (a) a business plan outlining the details of the commercial purpose of the sublease, including, for example,

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financial details about any proposed development under the sublease; and	1 2
(b) evidence to show that an appropriate return on the investment for the commercial purpose can not be obtained under a sublease for not more than 30 years; and	3 4 5 6
(c) other information or documents reasonably required by the Minister to show the purpose of the sublease.	7 8
‘(3) In considering whether to give consent to the grant of a townsite sublease, the Minister—	9 10
(a) must have regard to the information or documents given to the Minister under subsection (1) or (2); and	11 12
(b) may have regard to other information the Minister considers relevant to the proposed sublease.	13 14
‘(4) Before giving consent to the grant of a townsite sublease for more than 30 years, the Minister must be satisfied the grant of the sublease will not diminish the purpose for which the townsite lease was granted.	15 16 17 18
‘70A Requirement for Minister’s consent for townsite sublease for commercial purpose	19 20
‘(1) Before the Minister consents to the grant of a townsite sublease for more than 30 years for a commercial purpose, the Minister must—	21 22 23
(a) obtain an independent assessment of—	24
(i) the business plan and evidence given to the Minister under section 70(2)(a) and (b); and	25 26
(ii) the proposed sublessee’s financial and managerial capabilities; and	27 28
(b) be satisfied, having regard to the independent assessment, that—	29 30
(i) any proposed development under the sublease will be commercially viable; and	31 32

(ii)	the evidence given under section 70(2)(b) satisfactorily shows that an appropriate return on the investment for the purpose of the sublease can not be obtained under a sublease for not more than 30 years; and	1 2 3 4 5
(iii)	the proposed sublessee's financial and managerial capabilities are appropriate for carrying out any proposed development under the lease.	6 7 8
‘(2)	The proposed sublessee must pay the cost of the independent assessment.	9 10
‘(3)	The cost is not refundable.	11
‘70B	Requirement for Minister's consent for creation of interest under a townsite sublease	12 13
‘(1)	This section applies if, under section 72, an interest under a townsite sublease may be created only with the Minister's written consent.	14 15 16
‘(2)	The Minister may consent to the creation of the interest only if—	17 18
(a)	the interest is consistent with the purpose for which the townsite lease was granted; or	19 20
(b)	the interest would not diminish the purpose for which the townsite lease was granted.	21 22
‘(3)	A person seeking the Minister's consent must give the Minister the information or documents relevant to the proposed interest reasonably required by the Minister, including, for example, information or documents to show that the creation of the interest would not diminish the purpose for which the townsite lease was granted.	23 24 25 26 27 28

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‘Division 5	Common provisions for standard leases and townsite subleases	1 2
‘Subdivision 1	Preliminary	3
‘71	Definitions for div 5	4
	‘In this division—	5
	<i>lease</i> means—	6
	(a) a standard lease; or	7
	(b) a townsite sublease.	8
	<i>lessor</i> means—	9
	(a) for a standard lease—the trustee of the lease land; or	10
	(b) for a townsite sublease—the lessee of the townsite lease under which the townsite sublease is granted.	11 12
‘Subdivision 2	Conditions of leases	13
‘72	Conditions of leases—general	14
	‘(1) A lease is subject to a condition that an interest, other than a mortgage of the lease, for a term of more than 10 years may be created under the lease only with the Minister’s prior written consent.	15 16 17 18
	<i>Note—</i>	19
	For requirements for the Minister’s consent, see sections 63B and 70B.	20
	‘(2) Despite subsection (1)—	21
	(a) an interest under a lease granted under section 61(1)(a)(i) or 68(2)(a) may be created without the Minister’s prior written consent if the interest is in favour of—	22 23 24 25
	(i) a Torres Strait Islander; or	26

(ii)	another person who is not a Torres Strait Islander if the person is the spouse, or former spouse, of a Torres Strait Islander or of a Torres Strait Islander who is deceased; and	1 2 3 4
(b)	an interest under another lease may be created without the Minister's prior written consent if, under this part, the grant of the lease did not require the consent of the Minister.	5 6 7 8
'(3)	A lease may include a condition that—	9
(a)	a stated standard terms document under the Land Title Act forms part of the lease; or	10 11
(b)	the lease must not be transferred without the lessor's prior written consent; or	12 13
(c)	an interest under the lease, other than a mortgage of the lease, must not be created without the lessor's prior written consent.	14 15 16
'(4)	If a lease includes a condition mentioned in subsection (3)(b) or (c), the lessor must not unreasonably withhold consent to the transfer or creation of an interest under the lease.	17 18 19
'(5)	A lease may be mortgaged without the consent of the Minister or the lessor.	20 21
'(6)	Subject to subsection (5), this section does not limit the conditions that may be imposed on a lease.	22 23
'72A	Leases for private residential purposes—general conditions and requirements	24 25
'(1)	A lease granted for private residential purposes is subject to all of the following conditions—	26 27
(a)	if the lease is granted under section 61(1)(a)(i) or 68(2)(a)—	28 29
(i)	it must be for 99 years; and	30
(ii)	the annual rental under the lease is the amount, of not more than \$1, decided by the lessor; and	31 32

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- (iii) the consideration payable for the lease must include, as a lump sum payment, an amount equal to the value of the lease land as decided by the lessor using at least 1 of the following—
 - (A) a valuation methodology decided by the chief executive;
 - (B) the benchmark purchase price, as prescribed under a regulation, for land in the part of the State in which the lease land is situated; and
 - (iv) the lease land must be used primarily for private residential use;
 - (b) if a private residential premises is not situated on the lease land when the lease is granted—the lessee must ensure a private residential premises is built on the land within 8 years after the lease is granted;
 - (c) an interest may be created under the lease only if the interest is a residential tenancy or a mortgage of the lease.
- ‘(2) A lessor may grant a lease under section 61(1)(a)(i) or 68(2)(a) for private residential purposes only if the amount mentioned in subsection (1)(a)(iii) has been paid to the lessor.
- ‘(3) The chief executive—
 - (a) must, if requested, give a person a copy of the valuation methodology mentioned in subsection (1)(a)(iii); and
 - (b) may make the valuation methodology available for inspection on the department’s website.
- ‘72B Leases for private residential purposes—particular requirements if dwelling situated on land**
- ‘(1) This section applies if—
 - (a) a lessor proposes to grant a lease for private residential purposes; and
 - (b) a dwelling is situated on the land the subject of the proposed lease.

-
- ‘(2) The lessor must give the housing chief executive written notice of the lessor’s intention to grant the lease. 1
2
- ‘(3) Within 28 days after receiving the notice, the housing chief executive must give the lessor a written notice stating whether the housing chief executive considers the dwelling has been used to provide subsidised housing for residential use. 3
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- ‘(4) The lessor must not grant the lease before receiving the housing chief executive’s notice under subsection (3). 7
8
- ‘(5) Subsections (6) to (10) apply if the notice states the housing chief executive considers the dwelling has been used to provide subsidised housing for residential use. 9
10
11
- ‘(6) The lessor must, before the lease is granted, decide the value of the dwelling by using a valuation methodology agreed between the lessor and the housing chief executive. 12
13
14
- ‘(7) The consideration payable for the lease must include, as a lump sum payment, an amount equal to the value of the dwelling decided under subsection (6). 15
16
17
- ‘(8) The lessor may grant the lease only— 18
- (a) with the written approval of the housing chief executive; 19
and 20
- (b) if the amount mentioned in subsection (7) has been paid to the lessor. 21
22
- ‘(9) In considering whether to give an approval, the housing chief executive must have regard to whether it would be more appropriate in the circumstances for the dwelling to continue to be used to provide subsidised housing for residential use. 23
24
25
26
- ‘(10) If the lessor grants the lease, the lessor must, within 28 days after the lease is registered, give the housing chief executive— 27
28
- (a) a written notice stating— 29
- (i) the day the lease was registered; and 30
- (ii) the names of the parties to the lease; and 31
- (b) evidence showing the amount mentioned in subsection (7) for the dwelling was paid to the lessor; and 32
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- (c) evidence showing the amount decided by the lessor under section 72A(1)(a)(iii) for the lease land was paid to the lessor. 1
2
3
- Note—* 4
- The amount mentioned in subsection (7) must be used by the lessor as required under section 133A. 5
6
- ‘(11) This section does not limit section 72A. 7
- ‘(12) In this section— 8
- housing chief executive* means the chief executive of the department in which the *Housing Act 2003* is administered. 9
10
- ‘72C Option to renew particular lease or sublease 11**
- ‘(1) A lease or a sublease of a lease, other than a lease for private residential purposes, may include an option to renew the lease or sublease. 12
13
14
- ‘(2) The term of a renewed lease or sublease must not be more than the initial term of the lease or sublease. 15
16
- ‘Subdivision 3 Provisions about transfer, amendment or surrender of leases 17
18**
- ‘73 Transfer or amendment of lease or sublease 19**
- ‘(1) A lease or a sublease of a lease must not be transferred or amended without— 20
21
- (a) if, under a condition of the lease, the transfer or amendment of the lease or sublease requires the consent of the lessor—the lessor’s prior written consent; and 22
23
24
- (b) if, under this part, the grant of the lease or sublease requires the consent of the Minister—the Minister’s prior written consent. 25
26
27
- ‘(2) A person seeking the Minister’s consent to the transfer or amendment of a lease or sublease must give the Minister the 28
29

information or documents relevant to the proposed transfer or amendment reasonably required by the Minister.	1 2
‘(3) In considering whether to consent to the transfer of a lease or sublease, the Minister must consider whether the proposed transferee can comply with the conditions of the lease.	3 4 5
‘(4) The Minister may consent to the amendment of a lease or sublease only if the Minister is satisfied—	6 7
(a) the amendment does not significantly change the conditions of the lease or sublease; and	8 9
(b) the amended lease or sublease—	10
(i) for a standard lease—is for the benefit of persons for whom the trustee holds the land; or	11 12
(ii) for a townsite sublease—will not diminish the purpose of the relevant townsite lease.	13 14
‘(5) Before the Minister consents to the transfer of a lease for more than 30 years for a commercial purpose, the Minister must—	15 16
(a) obtain an independent assessment of the proposed transferee’s financial and managerial capabilities; and	17 18
(b) be satisfied, having regard to the independent assessment, that the proposed transferee’s financial and managerial capabilities are appropriate for complying with the conditions of the lease.	19 20 21 22
‘(6) The proposed transferee must pay the cost of the independent assessment.	23 24
‘(7) The cost is not refundable.	25
‘(8) A lease or sublease of a lease must not be transferred to a person who, under this Act, would not be entitled to a grant of the lease.	26 27 28
‘73A Particular dealings to be registered	29
‘(1) All leases, and any sublease of a lease or transfer, amendment or surrender of a lease or sublease, must be registered.	30 31

[s 165]

‘(2)	Despite the Land Title Act, section 65(2), an instrument of lease for Torres Strait Islander land, must include a plan of survey identifying the lease land.	1 2 3
‘(3)	Subsection (2) does not apply to a lease entered into only in relation to an area completely within a building.	4 5
‘Division 6	Forfeiture and renewal of leases for private residential purposes	6 7
‘Subdivision 1	Preliminary	8
‘74	Definitions for div 6	9
	‘In this division—	10
	<i>lessee</i> means—	11
(a)	for a residential lease that is a standard lease—the lessee under the lease; or	12 13
(b)	for a residential lease that is a townsite sublease—the sublessee under the sublease.	14 15
	<i>lessor</i> means—	16
(a)	for a residential lease that is a standard lease—the trustee of the lease land; or	17 18
(b)	for a residential lease that is a townsite sublease—the lessee of the townsite sublease under which the townsite sublease is created.	19 20 21
	<i>residential lease</i> means—	22
(a)	a standard lease granted under section 61(1)(a)(i) for private residential purposes; or	23 24
(b)	a townsite sublease granted under section 68(2)(a) for private residential purposes.	25 26

‘74A Application of div 6	1
‘This division applies to all residential leases.	2
‘Subdivision 2 Forfeiture	3
‘75 Grounds for forfeiture	4
‘(1) A residential lease may be forfeited only if—	5
(a) the lessee breaches a relevant condition of the lease and	6
fails to remedy the breach within 6 months after	7
receiving written notice of the breach from the lessor; or	8
(b) the lessee acquired the lease by fraud.	9
‘(2) In this section—	10
<i>relevant condition</i> , of a residential lease, means—	11
(a) a condition of the lease mentioned in section 72A(1)(b);	12
or	13
(b) another condition, if the lessor reasonably considers a	14
breach of the condition is of a serious nature and	15
warrants forfeiture of the lease.	16
‘75A Referral to Land Court for forfeiture	17
‘(1) Before the residential lease is forfeited, the lessor must refer	18
the matter to the Land Court to decide whether the lease may	19
be forfeited.	20
‘(2) The lessor must give the lessee, and any mortgagee of the	21
lease, at least 28 days written notice of the lessor’s intention to	22
refer the matter to the Land Court.	23
‘(3) The notice must state the grounds on which the lessor	24
considers the lease may be forfeited.	25
‘(4) In deciding whether the lease may be forfeited, the Land	26
Court must have regard to—	27
(a) the stated grounds; and	28

[s 165]

- (b) if the lease is proposed to be forfeited because of a breach of a condition of the lease—whether the court considers the breach is of a serious nature and warrants forfeiture of the lease. 1
2
3
4
- ‘(5) The lessor must file a copy of the notice in the Land Court at the same time as the lessor refers the matter to the court. 5
6
- ‘75B Lessor’s options if Land Court decides lease may be forfeited 7
8**
- ‘If the Land Court decides the residential lease may be forfeited, the lessor may— 9
10
- (a) forfeit the lease under this subdivision; or 11
- (b) if the proposed forfeiture is because of a breach of a condition of the lease—decide not to forfeit the lease, but instead to allow the lease to continue subject to the lease being amended to include conditions agreed between the lessor and the lessee. 12
13
14
15
16
- ‘75C Notice and effect of forfeiture 17**
- ‘(1) If the lessor forfeits the residential lease, the lessor must, within 60 days after receiving notice of the Land Court’s decision about forfeiture of the lease, give written notice that the lease is forfeited to— 18
19
20
21
- (a) the lessee and any mortgagee of the lease; and 22
- (b) the registrar. 23
- ‘(2) On receiving the notice, the registrar must record the forfeiture of the lease in the appropriate register. 24
25
- ‘(3) The forfeiture of the lease takes effect on the day the registrar acts under subsection (2). 26
27
- ‘(4) On forfeiture of the lease— 28
- (a) the lease ends; and 29
- (b) the lessee is divested of any interest in the lease; and 30

(c)	any person occupying the lease land must immediately vacate the land.	1 2
'75D	Extension of term of lease—referral for forfeiture	3
(1)	This section applies to the residential lease if—	4
(a)	a matter has been referred to the Land Court for forfeiture of the lease; and	5 6
(b)	after the referral but before the Land Court makes its decision on the matter, the term of the lease would, but for subsection (2), end.	7 8 9
(2)	The term of the lease is taken to continue until—	10
(a)	if the lease is forfeited—notice of its forfeiture is given to the registrar under this subdivision; or	11 12
(b)	otherwise—the end of 60 days after the lessor receives notice of the Land Court's decision.	13 14
(3)	Subsection (2) applies to the lease despite the provisions of the lease and any other provision of this Act.	15 16
'Subdivision 3	Renewal	17
'76	Notice of expiry of lease	18
(1)	This section applies if the lessee under a residential lease has not, under section 76A, applied for renewal of the lease at least 1 year before the term of the lease ends.	19 20 21
(2)	The lessor must, as soon as practicable, give the lessee written notice stating—	22 23
(a)	the day the term of the lease ends; and	24
(b)	that the lessee may apply under this subdivision for renewal of the lease and how the lessee may apply.	25 26

[s 165]

‘76A Application to renew lease	1
‘(1) The lessee may apply in writing to the lessor to renew the residential lease.	2 3
‘(2) The application must be made not more than 2 years before the term of the lease ends.	4 5
‘(3) The application must—	6
(a) state the name of the lessee; and	7
(b) include information to identify the lease.	8
‘76B Lessor to consider and decide application	9
‘The lessor must, within 6 months after an application is made under section 76A, consider the application and decide to renew or not to renew the residential lease.	10 11 12
‘76C Decision to renew lease	13
‘(1) If the lessor decides to renew the residential lease, the lessor must give the lessee—	14 15
(a) written notice of the decision; and	16
(b) a copy of the renewed lease.	17
‘(2) The renewed lease—	18
(a) must be for the same term as the lease it replaces (the <i>replaced lease</i>); and	19 20
(b) has effect immediately after the replaced lease ends; and	21
(c) is subject to all the conditions to which the replaced lease was subject immediately before it ended.	22 23
‘(3) No amount is payable under section 72A(1)(a)(iii) for the renewed lease.	24 25
‘(4) Also, section 72B does not apply for the renewal of the lease.	26

'76D Lessor may decide not to renew lease	1
'The lessor may decide not to renew the residential lease only	2
if the lessor is satisfied the lease land is not being used for	3
private residential purposes.	4
'76E Notice to lessee about decision not to renew lease	5
'If the lessor decides not to renew the residential lease, the	6
lessor must give the lessee a written notice stating the	7
following—	8
(a) that the lessor has decided not to renew the lease;	9
(b) the reasons for the decision;	10
(c) that the person to whom the notice is given may appeal	11
to the Land Court against the decision within 28 days	12
after receiving the notice;	13
(d) how the person may appeal.	14
'76F Extension of term of lease—application for renewal	15
'(1) This section applies to the residential lease if—	16
(a) the lessee has applied to renew the lease under this	17
subdivision; and	18
(b) before the lessor makes its decision on the application,	19
the term of the lease would, but for subsection (2), end.	20
'(2) The term of the lease is taken to continue until notice of the	21
lessor's decision is given to the lessee under this subdivision.	22
'(3) Subsection (2) applies to the lease despite the provisions of	23
the lease and any other provision of this Act.	24

[s 165]

‘Subdivision 4	General matters about forfeiture or non-renewal of residential leases	1 2
‘77	Right to remove improvements if lease forfeited or not renewed	3 4
‘(1)	If the lessor forfeits or decides not to renew the lease, the lessor must allow the lessee to remove the lessee’s improvements on the lease land within a reasonable period decided by the lessor.	5 6 7 8
‘(2)	If the improvements are not removed within the period, they become the property of the lessor.	9 10
‘77A	Payment by lessor for forfeited or non-renewed lease	11 12
‘(1)	If the lessor forfeits or decides not to renew the residential lease, the lessor must pay to the person who was the lessee the amount worked out under subsection (2) (the <i>required amount</i>).	13 14 15 16
‘(2)	The required amount is the amount equal to the combined value of the following (the <i>maximum amount</i>) less any amounts deducted from the maximum amount under section 77C—	17 18 19 20
(a)	the value of the lease land on the day the lease is forfeited or ends; and	21 22
(b)	the value of the lessee’s improvements on the land that become the property of the lessor.	23 24
‘(3)	The value of the lease land is the amount as decided by the lessor using the valuation methodology mentioned in section 72A(1)(a)(iii).	25 26 27
‘(4)	The value of any improvements on the lease land must be assessed as the market value of the improvements in a sale of a lease of the same term and tenure as the forfeited or non-renewed lease.	28 29 30 31

‘(5) Subject to subsections (3) and (4), the lessor must decide the required amount.	1 2
‘(6) The lessor must decide the required amount as soon as practicable after giving the person notice that the lease is forfeited or not renewed.	3 4 5
‘(7) On deciding the required amount, the lessor must give the person written notice of the decision.	6 7
‘(8) The notice must state—	8
(a) the required amount; and	9
(b) that the person may appeal to the Land Court against the decision within 28 days after receiving the notice; and	10 11
(c) how the person may appeal.	12
‘(9) This section is subject to section 77B.	13
‘77B Unclaimed amounts	14
‘If the lessor can not find the person entitled to receive the required amount, or the person does not collect the amount from the lessor within 9 years after the day the lease is forfeited or not renewed, the required amount is forfeited to the lessor.	15 16 17 18 19
‘77C Amounts owing to lessor or mortgagee to be deducted	20 21
‘If the lessor forfeits or decides not to renew the residential lease, the lessor may deduct the following amounts from the maximum amount—	22 23 24
(a) an amount in payment of all costs properly incurred by the lessor in forfeiting or not renewing the lease;	25 26
(b) an amount in payment of expenses incurred by the lessor to rectify damage caused to the lease land by the person who was the lessee;	27 28 29
(c) any amount owing to the lessor by the person under the lease;	30 31

[s 165]

- (d) any amount owing to a mortgagee of the lease by the person under a mortgage of the lease. 1
2

- ‘77D Payment of amount to mortgagee in discharge of mortgage** 3
4
- ‘(1) This section applies if the lessor forfeits or decides not to renew the residential lease and, under a mortgage of the lease, an amount is owing to a mortgagee of the lease by the person who was the lessee. 5
6
7
8
- ‘(2) The lessor must pay to the mortgagee— 9
 - (a) if the amount that may be deducted from the maximum amount under section 77C(d) is less than the difference between the maximum amount and the amounts deducted under section 77C(a), (b) or (c)—the amount that may be deducted from the maximum amount under section 77C(d); or 10
11
12
13
14
15
 - (b) otherwise—the amount equal to the difference between the maximum amount and the amounts deducted under section 77C(a), (b) or (c). 16
17
18
- ‘(3) The lessor must pay the amount payable under subsection (2) to the mortgagee— 19
20
 - (a) if no appeal is made to the Land Court about the required amount payable to the person who was the lessee—within 28 days after the time for making an appeal ends; or 21
22
23
24
 - (b) if an appeal is made to the Land Court about the required amount—within 28 days after the appeal is finally decided. 25
26
27
- ‘(4) If the lessor pays an amount to the mortgagee in relation to a mortgage of the lease, the mortgagee must use the amount in discharge of the mortgage. 28
29
30

‘Division 7	Miscellaneous	1
‘78	Effect of option to renew or extend on calculation of term of leases	2 3
‘(1)	This section applies to a lease granted for an initial term of—	4
	(a) not more than 10 years; or	5
	(b) at least 10 years but not more than 30 years.	6
‘(2)	For the purposes of section 54A and this part, the lease is taken to be a lease for more than 10 years or more than 30 years if the lease includes an option to renew or extend the lease that, if exercised, would extend the term of the lease for more than 10 years or more than 30 years.	7 8 9 10 11
‘(3)	In this section—	12
	<i>lease</i> means a standard lease or a townsite sublease.	13
‘78A	Exemption from fees and charges	14
‘(1)	This section applies to an instrument of lease for a residential lease.	15 16
‘(2)	No fee or charge is payable for—	17
	(a) the lodgement and registration of the instrument in the land registry; or	18 19
	(b) the provision by the registrar of titles of other services for the lodgement and registration of the instrument.	20 21
‘78B	Leases for private residential purposes—beneficiary	22
‘(1)	A person who is beneficially entitled under a will to a residential lease may ask the lessor—	23 24
	(a) to give the person a written notice stating whether or not the person is entitled to a grant of the lease under this Act; and	25 26 27

of a mining interest in the land or enter into an agreement
about the land. 1
2

‘(2) The trustee must— 3

(a) have regard to— 4

(i) if the Torres Strait Islanders for whom the trustee
holds the land have agreed on a decision-making
process for decisions of that kind—the process; or 5
6
7

(ii) if subparagraph (i) does not apply—any Island
custom, for decisions of that kind, of the Torres
Strait Islanders for whom the trustee holds the
land; or 8
9
10
11

(b) if there is no decision-making process mentioned in
paragraph (a)(i) or relevant Island custom—make the
decision under a process of decision-making agreed to
and adopted by the trustee for the decision or for
decisions of that kind.’. 12
13
14
15
16

**Clause 166 Replacement of pt 5A (Provisions about mortgages of
leases over Torres Strait Islander land) 17
18**

Part 5A— 19

omit, insert— 20

**‘Part 5A Provisions about mortgages of
leases over Torres Strait
Islander land 21
22
23**

‘Division 1 Preliminary 24

‘80AA Definitions for pt 5A 25

‘In this part— 26

lease means— 27

(a) a standard lease; or 28

[s 166]

(b)	a townsite sublease.	1
	<i>lessor</i> means—	2
(a)	for a standard lease—the trustee of the lease land; or	3
(b)	for a townsite sublease—the lessee of the townsite lease under which the townsite sublease is granted.	4 5
‘80A	Application of pt 5A	6
	‘If, in relation to the mortgaging of a lease over Torres Strait Islander land, there is an inconsistency between a provision of this part and the Land Title Act, part 6, division 3, or the <i>Property Law Act 1974</i> , the provision of this part prevails to the extent of the inconsistency.	7 8 9 10 11
‘Division 2	Mortgages of leases over Torres Strait Islander land	12 13
‘80B	Provisions about entering into possession, and selling, lease	14 15
‘(1)	This section applies if a mortgagee enters into possession of a lease granted over Torres Strait Islander land.	16 17
‘(2)	The mortgagee must give the lessor for the lease written notice of the fact within 28 days after entering into possession.	18 19 20
‘(3)	The mortgagee must arrange to sell the lease within—	21
(a)	4 years after entering into possession of the lease; or	22
(b)	the longer period agreed in writing between the mortgagee and lessor.	23 24
‘(4)	For subsection (3)(b)—	25
(a)	the period mentioned in subsection (3)(a) may be extended or further extended for not more than 2 years at a time; and	26 27 28

-
- (b) an extension or further extension of the period must be agreed in writing before the period or further extended period would otherwise have ended.
- ‘(5) In considering whether to agree to an extension or further extension, the lessor must have regard to the measures the mortgagee has already taken to sell the lease.
- ‘(6) If the mortgagee does not sell the lease within the period mentioned in subsection (3)(a), the lessor may sell the lease.
- ‘(7) The mortgagee or lessor may sell the lease only to a person who, under this Act, would be entitled to a grant of the lease.
- ‘(8) The lessor must not sell the lease for less than—
- (a) the amount owing to the mortgagee by the lessee under the mortgage on the day the lease is sold; or
- (b) if the lessor and the mortgagee agree the lease may be sold for an amount less than the amount mentioned in paragraph (a)—the agreed amount.
- ‘(9) In this section—
- lessee* means—
- (a) for a standard lease—the lessee under the lease; or
- (b) for a townsite sublease—the sublessee under the sublease.
- ‘80C How lessor deals with proceeds of sale**
- ‘(1) This section applies if, under section 80B, a lessor sells a mortgaged lease.
- ‘(2) The lessor must apply the proceeds of the sale, under the *Property Law Act 1974*, as if the lease were sold by the mortgagee and the amount of the sale were received by the mortgagee.
- ‘(3) However, in applying the proceeds of the sale, the lessor must firstly apply the proceeds to the payment of all costs, charges and expenses properly incurred by the lessor for the sale or any attempted sale.’.

[s 167]

Clause 167	Amendment of s 80D (Definitions for pt 5B)	1
(1)	Section 80D, definition <i>Torres Strait Islander trust land</i> , paragraph (d), ‘reserve for’—	2
	<i>omit, insert—</i>	3
	‘reserve for Torres Strait Islander purposes or’.	4
(2)	Section 80D, definition <i>trustee (Torres Strait Islander) lease</i> , from ‘under’—	5
	<i>omit, insert—</i>	6
	‘under—	7
(a)	part 4C as applied under section 80F(2); or	8
(b)	the Land Act, section 57 before the commencement of this part.’.	9
		10
		11
		12
Clause 168	Amendment of s 80F (Trustee (Torres Strait Islander) leases)	13
(1)	Section 80F(1), ‘part 3, division 2, subdivision 3’—	14
	<i>omit, insert—</i>	15
	‘part 4C’.	16
(2)	Section 80F(2)(a), ‘transferred land’—	17
	<i>omit, insert—</i>	18
	‘Torres Strait Islander land’.	19
(3)	Section 80F(2)(c), from ‘section 37F(4)(a)’ to ‘section 80F(4)(a)’—	20
	<i>omit, insert—</i>	21
	‘section 63(4)(a) to section 54A(1)(a) were a reference to section 80F(5)(a)’.	22
(4)	Section 80F(2)(d) and (f)—	23
	<i>omit.</i>	24
(5)	Section 80F(2)(e)—	25
	<i>renumber</i> as section 80F(2)(d).	26
		27
		28
		29

(6)	Section 80F(2)(d), as renumbered under this section, ‘section 37H(3)(a)’—	1 2
	<i>omit, insert—</i>	3
	‘section 72(3)(a)’.	4
(7)	Section 80F—	5
	<i>insert—</i>	6
‘(2A)	Also, for subsection (1) the following provisions apply in relation to the leasing of Torres Strait Islander trust land that is prescribed DOGIT land as if a reference in the provisions to a Torres Strait Islander includes a reference to an Aborigine—	7 8 9 10
	(a) section 61;	11
	(b) section 72(2).’.	12
(8)	Section 80F(5), ‘part 3, division 2, subdivision 3’—	13
	<i>omit, insert—</i>	14
	‘part 4C’.	15
(9)	Section 80F(7), definition <i>relevant provisions</i> , ‘part 3, division 2, subdivisions 3 and 4’—	16 17
	<i>omit, insert—</i>	18
	‘part 4C, divisions 1 to 6’.	19
(10)	Section 80F(2A) to (7)—	20
	<i>renumber</i> as section 80F(3) to (8).	21
(11)	Section 80F(7), as renumbered under this section, ‘Subsection (5)’—	22 23
	<i>omit, insert—</i>	24
	‘Subsection (6)’.	25
Clause 169	Amendment of s 80G (Amending trustee (Torres Strait Islander) lease)	26 27
	Section 80G(2), definition <i>term</i> , paragraph (a)—	28

[s 170]

omit, insert— 1
'(a) the renewal of the lease; or'. 2

Clause 170	Amendment of s 81 (Crown's use of Islander land preserved)	3 4
(1)	Section 81, heading, 'Crown's use of Islander'—	5
	<i>omit, insert—</i>	6
	'Use of Torres Strait Islander'.	7
(2)	Section 81(1), 'the Crown in right of'—	8
	<i>omit.</i>	9
(3)	Section 81(1), 'Crown is entitled'—	10
	<i>omit, insert—</i>	11
	'State or Commonwealth is entitled'.	12
(4)	Section 81(1), 'required by the Crown'—	13
	<i>omit, insert—</i>	14
	'required by the State or Commonwealth'.	15
(5)	Section 81(2), 'Crown'—	16
	<i>omit, insert—</i>	17
	'State or Commonwealth'.	18
(6)	Section 81(3)—	19
	<i>omit, insert—</i>	20
'(3)	If the chief executive becomes aware the occupation or use of land under subsection (1) is no longer required by the State or Commonwealth, the chief executive must give the trustee written notice of that fact.	21 22 23 24
'(4)	Despite subsection (1), if the State or Commonwealth intends to continue to occupy or use the land, the State or Commonwealth and the trustee of the land are to use their best endeavours to provide for the continued occupation and use of	25 26 27 28

the land under an interest in, or in relation to, the land given 1
by the trustee of the land. 2

- ‘(5) Subsection (1) ceases to apply to land if— 3
- (a) it is leased to a person for a private residential purpose 4
under part 4C; or 5
 - (b) the State or Commonwealth has a right to occupy or use 6
the land under an interest in, or in relation to, the land 7
given by the trustee of the land; or 8
 - (c) the trustee of the land receives a notice under subsection 9
(3) for the land.’. 10

Clause 171 Amendment of s 82 (No rent payable by Crown) 11

- (1) Section 82, heading, ‘by Crown’— 12
omit. 13
- (2) Section 82, ‘The Crown’— 14
omit, insert— 15
‘The State or Commonwealth’. 16
- (3) Section 82, ‘section 81’— 17
omit, insert— 18
‘section 81(1)’. 19

Clause 172 Amendment of s 83 (Access to land used by Crown) 20

- (1) Section 83, heading, ‘used by Crown’— 21
omit. 22
- (2) Section 83(1), ‘Crown is entitled’— 23
omit, insert— 24
‘State or Commonwealth is entitled’. 25
- (3) Section 83(1), ‘Crown and its’— 26
omit, insert— 27

[s 173]

‘State or Commonwealth and their’. 1

(4) Section 83(2)(b), ‘Crown and the grantees’— 2

omit, insert— 3

‘State or Commonwealth and the trustee’. 4

(5) Section 83(3), ‘grantees’— 5

omit, insert— 6

‘trustee’. 7

(6) Section 83(3)(a), ‘they have’— 8

omit, insert— 9

‘the trustee has’. 10

(7) Section 83(3)(c)— 11

omit. 12

Clause 173 Amendment of s 84 (Application of Mineral Resources Act) 13
14

(1) Section 84(2), ‘subsection (5)’— 15

omit, insert— 16

‘subsection (3)’. 17

(2) Section 84(2), from ‘the following’— 18

omit, insert— 19

‘Torres Strait Islander land that is or was transferred land as if 20

it were a reserve, and the trustee of the land were the owner of 21

the land, within the meaning of that Act.’. 22

(3) Section 84(3) and (4)— 23

omit. 24

(4) Section 84(5), (6) and (7)— 25

renumber as section 84(3), (4) and (5). 26

(5) Section 84(3), as renumbered under this section, ‘Subsections 27

(2) and (4)(b) do’— 28

omit, insert— 1

‘Subsection (2) does’. 2

(6) Section 84(5), as renumbered under this section, ‘Subsection (6)’— 3
4

omit, insert— 5

‘Subsection (4)’. 6

(7) Section 84(8)— 7

omit. 8

Clause 174 Amendment of s 85 (Royalties in relation to mining on Torres Strait Islander land) 9
10

(1) Section 85(1), from ‘(other’ to ‘lease)’— 11

omit. 12

(2) Section 85(2), ‘grantees of the land are’— 13

omit, insert— 14

‘trustee of the land is’. 15

(3) Section 85(2), ‘royalty amount, and the grantees are to apply’— 16
17

omit, insert— 18

‘total royalty amount received in a financial year and must apply’. 19
20

(4) Section 85(2), ‘they hold’— 21

omit, insert— 22

‘the trustee holds’. 23

(5) Section 85(3)— 24

omit. 25

Clause 175 Replacement of pt 8 (The Land Tribunal) 26

Part 8— 27

[s 175]

<i>omit, insert—</i>	1	
‘Part 8	Provisions about land trusts	2
‘Division 1	Preliminary	3
‘86	Composition of land trust	4
	‘A land trust for an area of Torres Strait Islander land consists of all the members for the time being of the land trust.	5 6
‘87	Nature of land trust	7
‘(1)	A land trust—	8
	(a) is a body corporate with perpetual succession; and	9
	(b) has a seal; and	10
	(c) may sue and be sued in its corporate name.	11
‘(2)	A land trust has all the powers of an individual and may, for example—	12 13
	(a) acquire, hold and dispose of property; and	14
	(b) borrow, receive and spend money; and	15
	(c) employ staff, and engage consultants, necessary for the performance of its function.	16 17
‘(3)	The land trust’s seal—	18
	(a) is effective only if the land trust’s name is inscribed on the seal in legible characters, but the seal may include other words; and	19 20 21
	(b) is to be kept by a person who is authorised by the land trust for that purpose; and	22 23
	(c) may be attached to a document only with the written authority signed by—	24 25
	(i) if the land trust consists of 1 member—the member; or	26 27

(ii)	if the land trust consists of no more than 3 members—the chairperson of the land trust and at least 1 other member; or	1 2 3
(iii)	in any other case—	4
(A)	the chairperson and at least 2 other members; or	5 6
(B)	at least 3 members.	7
‘(4)	Judicial notice must be taken of the seal on a document.	8
‘(5)	A document marked with the seal must be presumed to have been properly sealed, unless the contrary is proved.	9 10
‘88	Function and powers of land trust	11
‘(1)	The function of a land trust is to provide a legal entity by which the members of the land trust may perform functions under this Act.	12 13 14
‘(2)	A land trust may exercise all powers necessary or convenient to perform its function.	15 16
	<i>Note—</i>	17
	Also see section 106 (Application of Trusts Act 1973).	18
‘Division 2	Minister’s power to appoint, remove or suspend members of land trusts	19 20
‘Subdivision 1	Appointment of members	21
‘89	Minister may appoint member	22
‘(1)	The Minister may, by written notice given to a land trust, appoint a person to be a member of the land trust if—	23 24
(a)	the rules of the land trust do not provide for the appointment of members; or	25 26

[s 175]

- (b) because of any circumstances affecting the operation of the land trust, the land trust can not appoint a member and a majority of members of the land trust have asked the Minister in writing to appoint the person as a member; or
- Example of circumstances affecting the operation of a land trust—*
- A land trust can not form a quorum for a meeting of the land trust to appoint a member.
- (c) the Minister considers it appropriate to appoint the member to ensure the land trust can carry out its functions under this Act.
- Example—*
- The Minister might appoint a member to replace a member removed by the Minister under this division.
- ‘(2) Before acting under subsection (1), the Minister must—
- (a) consult with the land trust; and
- (b) if the Minister considers it appropriate in the circumstances—consult with, and consider the views of, Torres Strait Islanders particularly concerned with the Torres Strait Islander land held by the land trust.
- ‘(3) The Minister must not appoint a person under subsection (1) without the person’s consent.
- ‘(4) The Minister must give the person a copy of the notice mentioned in subsection (1) when the notice is given to the land trust.
- ‘(5) A person appointed as a member of a land trust under this section becomes a member on the day stated in the notice.
- ‘(6) In acting under this section, the Minister must have regard to any Island custom applicable to the Torres Strait Islander land held by the land trust.

‘Subdivision 2	Removal or suspension of members	1
‘90	Grounds for removal or suspension of member	2
	‘Each of the following is a ground for removing or suspending a member—	3 4
	(a) if the member is a member of the executive committee of the land trust, the member—	5 6
	(i) in performing the member’s functions as a member of the committee, has contravened or is contravening a provision of this Act; or	7 8 9
	(ii) is carrying on, or has carried on, the business of the land trust in a fraudulent or improper way;	10 11
	(b) the member has stolen, misappropriated or improperly applied trust property;	12 13
	(c) the member is acting, or has acted, towards the land trust or another member in a fraudulent or improper way;	14 15
	(d) if the rules of the land trust do not provide for the removal or suspension of members—	16 17
	(i) the land trust has asked the Minister in writing to remove or suspend the member; and	18 19
	(ii) a ground mentioned in paragraph (a), (b) or (c) exists in relation to the member;	20 21
	(e) because of any circumstances affecting the operation of the land trust—	22 23
	(i) the land trust can not remove or suspend a member and a majority of members of the land trust have asked the Minister in writing to remove or suspend the member; and	24 25 26 27
	(ii) a ground mentioned in paragraph (a), (b) or (c) exists in relation to the member.	28 29
	<i>Example of circumstances affecting the operation of a land trust—</i>	30
	A land trust can not form a quorum for a meeting of the land trust to remove or suspend a member.	31 32

[s 175]

- ‘91 Show cause notice** 1
- ‘(1) This section applies if the Minister believes a ground exists to 2
remove or suspend a member of a land trust. 3
- ‘(2) The Minister must give the member and the land trust a notice 4
(a *show cause notice*). 5
- ‘(3) The show cause notice must state the following— 6
- (a) the action the Minister proposes to take under this 7
subdivision (the *proposed action*); 8
- (b) the ground for the proposed action; 9
- (c) an outline of the facts and circumstances forming the 10
basis for the ground; 11
- (d) if the proposed action is suspension of the member—the 12
proposed suspension period; 13
- (e) that the member and the land trust may, within a stated 14
period (the *show cause period*), make written 15
representations to the Minister to show why the 16
proposed action should not be taken. 17
- ‘(4) The show cause period must end at least 1 month after the 18
show cause notice is given. 19
- ‘92 Representations about show cause notice** 20
- ‘(1) The member or land trust may make written representations 21
about the show cause notice to the Minister during the show 22
cause period. 23
- ‘(2) The Minister must consider all representations (the *accepted* 24
representations) made under subsection (1). 25
- ‘93 Ending show cause process without further action** 26
- ‘If, after considering the accepted representations for the show 27
cause notice, the Minister no longer believes a ground exists 28
to remove or suspend the member, the Minister must— 29
- (a) take no further action about the show cause notice; and 30

-
- (b) give the member and the land trust a notice that no further action is to be taken about the show cause notice.

'94 Removing or suspending member

- '(1) This section applies if—
 - (a) there are no accepted representations about the show cause notice; or
 - (b) after considering the accepted representations about the show cause notice, the Minister—
 - (i) still believes a ground exists to remove or suspend the member; and
 - (ii) believes removal or suspension of the member is warranted.
- '(2) The Minister may—
 - (a) if the proposed action was to remove the member—remove the member; or
 - (b) if the proposed action was to suspend the member—suspend the member for not longer than the proposed suspension period.
- '(3) Before acting under subsection (2), the Minister must, if the Minister considers it appropriate in the circumstances, consult with and consider the views of Torres Strait Islanders particularly concerned with the Torres Strait Islander land held by the land trust.
- '(4) In acting under this section, the Minister must have regard to any Island custom applicable to the Torres Strait Islander land held by the land trust.
- '(5) If the Minister decides to take action under subsection (2), the Minister must as soon as practicable give—
 - (a) the person an information notice for the decision; and
 - (b) the land trust written notice of the decision.
- '(6) The decision takes effect on the later of the following—

[s 175]

- (a) the day the information notice is given to the person; 1
- (b) the day stated in the information notice for that purpose. 2
- ‘(7) In this section— 3
 - information notice*, for a decision of the Minister, means a 4
notice stating all of the following— 5
 - (a) the decision; 6
 - (b) the reasons for the decision; 7
 - (c) that the person to whom the notice is given may appeal 8
against the decision within 28 days after the person 9
receives the notice; 10
 - (d) how the person may appeal. 11
- ‘95 **Immediate removal or suspension of member** 12
- ‘(1) The Minister may remove or suspend a member immediately 13
if the Minister believes— 14
 - (a) a ground exists for removing or suspending the member; 15
and 16
 - (b) it is necessary to remove or suspend the member 17
immediately because there is an immediate and serious 18
risk to the proper operation of the land trust or proper 19
dealing with trust property. 20
- ‘(2) The removal or suspension under this section— 21
 - (a) can be effected only by the Minister— 22
 - (i) giving an information notice to the member about 23
the decision to remove or suspend the member, 24
together with a show cause notice; and 25
 - (ii) giving notice of the removal or suspension to the 26
land trust when the notices under subparagraph (i) 27
are given to the member; and 28
 - (b) operates immediately the notices are given to the 29
member; and 30

(c)	continues to operate until the earlier of the following happens—	1 2
(ii)	the show cause notice is finally dealt with;	3
(iii)	60 days have passed since the notices were given to the member.	4 5
'Subdivision 3	Other matters	6
'96	Limitation on land trust's power about appointment or suspension of members	7 8
'(1)	This section applies to a land trust that, under its rules, may appoint, remove or suspend members of the land trust.	9 10
'(2)	The land trust can not—	11
(a)	appoint a person as a member of the land trust if the person has been removed as a member by the Minister under this division; or	12 13 14
(b)	end the suspension of a person from membership of the land trust if the suspension is imposed by the Minister under this division.	15 16 17
'Division 3	Recording information about compliance with Act	18 19
'97	Particular information to be recorded in register	20
'(1)	The chief executive must, for each land trust and each financial year, record in the Torres Strait Islander land holding entity register whether or not the land trust has, for the financial year, operated in compliance with the Act.	21 22 23 24
'(2)	In deciding whether or not a land trust has operated in compliance with the Act, the chief executive must have regard to any minimum requirements, prescribed under a regulation, that a land trust must meet to be compliant.	25 26 27 28

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‘Division 4	Land trusts to give information to chief executive	1 2
‘98	Definition for div 4	3
	‘In this division—	4
	<i>information</i> includes a document.	5
‘99	Power to require particular information	6
	‘(1) The chief executive may, by written notice, require a land trust to give the chief executive stated information, or stated types of information, in its possession or control that is, or are, relevant to the operation of the land trust or the conduct of its business.	7 8 9 10 11
	<i>Examples of information—</i>	12
	• information about how a land trust made a particular decision	13
	• accounts, bank statements and other financial information	14
	• minutes of meetings	15
	‘(2) The notice must state a reasonable period to comply with the requirement.	16 17
	‘(3) The land trust must comply with the requirement unless complying with the notice would place the land trust in contravention of a law.	18 19 20
‘Division 5	Freezing accounts of land trust	21
‘100	Definitions for div 5	22
	‘In this division—	23
	<i>account</i> , of a land trust, means—	24
	(a) an account, with a financial institution, in the land trust’s name or in which the land trust has an interest; or	25 26
	(b) another account to which trust money is deposited.	27

holder, of a land trust’s account, means the land trust or other person authorised to operate the account. 1
2

trust money means any amount that is trust property. 3

‘101 Freezing land trust’s accounts 4

‘(1) The chief executive may give a direction under subsection (2) if, on considering a report on an audit of a land trust’s accounts, it appears to the chief executive that— 5
6
7

(a) the land trust, a member of the land trust or another person has, or may have, stolen, misappropriated or misapplied trust money; or 8
9
10

(b) the accounts of the land trust are not being kept appropriately. 11
12

‘(2) The chief executive may direct, by a written notice, that— 13

(a) an amount must not be drawn from a stated account other than with the chief executive’s approval; or 14
15

(b) a stated account may be operated only under stated conditions. 16
17

‘(3) The direction must— 18

(a) be given to the holder of the account and the financial institution where the account is kept; and 19
20

(b) state the account to which it relates; and 21

(c) if it includes a direction under subsection (2)(b), state the conditions under which the account may be operated. 22
23
24

‘102 Financial institution must comply with direction 25

‘(1) After the direction is given to a financial institution, and until it is withdrawn, the financial institution must not— 26
27

(a) pay a cheque or other instrument drawn on the account stated in the direction unless the cheque or instrument is also signed by the chief executive; or 28
29
30

[s 175]

(b)	give effect to another transaction on the account that is not authorised because of the direction.	1 2
	Maximum penalty—100 penalty units.	3
‘(2)	For section 101(2)(a), the chief executive’s signature on a cheque or instrument is sufficient evidence of the chief executive’s approval to draw an amount from the account to honour the cheque or instrument.	4 5 6 7
‘103	Withdrawal of direction	8
‘(1)	The chief executive may withdraw a direction given under section 101 at any time.	9 10
‘(2)	If the direction is withdrawn, the chief executive must immediately give all persons who were given the direction a written notice, signed by the chief executive, that the direction has been withdrawn.	11 12 13 14
‘(3)	A direction stops having effect when it is withdrawn.	15
‘Division 6	Miscellaneous	16
‘104	Chief executive may prepare model rules	17
‘(1)	The chief executive may prepare model rules for land trusts.	18
‘(2)	In adopting changes to its rules, or adopting new rules, a land trust must have regard to the model rules prepared under subsection (1).	19 20 21
‘(3)	If the chief executive prepares model rules under subsection (1), the chief executive must give a copy of the model rules to each land trust.	22 23 24
‘105	Provision about vesting of Torres Strait Islander land	25
‘(1)	If Torres Strait Islander land is held by a land trust, the land is taken to have been vested in the land trust.	26 27

‘(2)	Subsection (1) applies to Torres Strait Islander land whether or not the land was first held by the land trust before the commencement of this section.	1 2 3
‘Part 8A	Application of Trusts Act 1973	4
‘Division 1	Preliminary	5
‘106	Application of Trusts Act 1973	6
‘(1)	The <i>Trusts Act 1973</i> applies to a land trust and its members in relation to dealings with Torres Strait Islander land only to the extent prescribed under this part.	7 8 9
‘(2)	To the extent that the <i>Trusts Act 1973</i> does apply to a land trust and its members in relation to dealings with Torres Strait Islander land, it applies with the changes prescribed under this part.	10 11 12 13
‘(3)	To remove any doubt, it is declared that the <i>Trusts Act 1973</i> applies, without changes, to a land trust and its members in relation to dealings with trust property that is not Torres Strait Islander land.	14 15 16 17
‘Division 2	Powers of Supreme Court	18
‘107	Jurisdiction of Supreme Court	19
‘(1)	Subject to subsection (2), the jurisdiction of the Supreme Court under the <i>Trusts Act 1973</i> includes matters arising under this Act.	20 21 22
‘(2)	The powers of the Supreme Court under the <i>Trusts Act 1973</i> are to be exercised—	23 24

[s 175]

- (a) if provision is made in this part for a matter—in accordance with this part; or 1
2
- (b) otherwise—in a way that is consistent with, and best achieves, the purposes of this Act. 3
4
- ‘108 Power of court to relieve member of land trust from personal liability** 5
6
- ‘(1) This section applies if it appears to the Supreme Court that a member of a land trust is or may be personally liable for a breach of trust by the member, another member or the land trust. 7
8
9
10
- ‘(2) If it appears to the court that the member— 11
- (a) has acted honestly and reasonably; and 12
- (b) ought fairly to be excused for the breach of trust or for omitting to obtain the directions of the court in the matter in which the member, the other member or the land trust committed the breach; 13
14
15
16
- the court may relieve the member wholly or partly from personal liability for the breach. 17
18
- ‘109 Court may order beneficiary to indemnify for certain breaches** 19
20
- ‘(1) This section applies if a land trust or a member of a land trust commits a breach of trust at the instigation or request of, or with the written consent of, a beneficiary. 21
22
23
- ‘(2) The Supreme Court may, as it considers just, order that all or part of the interest of the beneficiary in the trust property is impounded to indemnify the land trust, the member or persons claiming through the land trust or member. 24
25
26
27
- ‘110 Right of land trust or member to apply to court for directions** 28
29
- ‘(1) A land trust or member of a land trust may apply to the Supreme Court for directions in relation to— 30
31

-
- (a) the trust property of the land trust or its management or administration; or 1
2
- (b) the exercise of a power of the land trust or a member of the land trust. 3
4
- ‘(2) The application must be served on, and the hearing of the application may be attended by— 5
6
- (a) all persons interested in the application; or 7
- (b) the persons interested in the application, or their representatives, that the court considers appropriate. 8
9
- ‘111 Court’s jurisdiction to make orders conferring power on land trust or members 10
11**
- ‘(1) This section applies if, in the Supreme Court’s opinion, a disposition or transaction— 12
13
- (a) is expedient for the management or administration of trust property by a land trust or members of a land trust; 14
15
or 16
- (b) would be in the best interest of the Torres Strait Islanders, or a majority of the Torres Strait Islanders, for whose benefit the property is held; 17
18
19
- but— 20
- (c) it is inexpedient, difficult or impractical to effect the disposition or transaction without the assistance of the Supreme Court; or 21
22
23
- (d) the land trust or members do not have power under the Act to effect the disposition or transaction. 24
25
- ‘(2) The Supreme Court may— 26
- (a) confer on the land trust or members the necessary power for the purpose of effecting the disposition or transaction (other than a power to sell or mortgage Torres Strait Islander land), on such terms and subject to any conditions, as the court considers appropriate; and 27
28
29
30
31
- (b) direct the way that— 32

[s 175]

- (i) any amount authorised to be spent, and the costs of the disposition or transaction, are to be paid or borne from trust property; and
 - (ii) the amount is to be apportioned between the capital and income of the trust property.
 - ‘(3) The Supreme Court may—
 - (a) rescind or vary an order under this section; or
 - (b) make a new or further order.
 - ‘(4) The rescision or variation of an order does not affect anything done by a person relying on the order before the person became aware of the application to the court to rescind or vary the order.
 - ‘(5) An application to the court under this section may be made by—
 - (a) a land trust; or
 - (b) a member of a land trust; or
 - (c) a person for whose benefit the trust property is held.
 - ‘(6) In this section—
 - disposition* means a sale, lease, mortgage, surrender, release or another type of disposition.
 - transaction* means a purchase, investment, acquisition, retention, expenditure or another type of transaction.
- ‘112 Protection of land trust or member while acting under direction of court**
- ‘(1) If a land trust or member of a land trust acts under direction of the Supreme Court, the land trust or member is to be taken to have discharged the duty as trustee in the subject matter of the direction.
 - ‘(2) Subsection (1) applies even if the direction is subsequently declared invalid, overruled, set aside or otherwise rendered of no effect or varied.

-
- ‘(3) This section does not indemnify a land trust or member of a land trust in relation to an act done in accordance with a direction of the court obtained by the land trust or member by fraud, wilful concealment or misrepresentation or in acquiescence in the fraud, wilful concealment or misrepresentation.
- ‘113 Power of Supreme Court to make orders in absence of member**
- ‘(1) If, in a proceeding under this Act, the Supreme Court is satisfied that—
- (a) a diligent search has been made for a member of a land trust who is named as a party in an action; and
 - (b) the member can not be found to serve the member with a process of the court;
- the court may hear and decide the proceeding and give judgment against the member as if the member had been served or had entered an appearance in the action, and had also appeared by counsel or solicitor at the hearing.
- ‘(2) Subsection (1) applies without prejudice to any interest the member may have in the matter in question in the proceeding in any other capacity.
- ‘(3) If a member, at the time of the proceeding—
- (a) is not within the jurisdiction; or
 - (b) is under a disability; or
 - (c) can not be found;
- the court may appoint a person to represent the member and may proceed in the absence of the member, and all orders made in the proceeding are binding on the member as if the member had been present and of full capacity.

[s 175]

‘114	Power of Supreme Court to charge costs on trust property	1
		2
	‘The Supreme Court may order the cost and expenses of, and incidental to, an application for an order or direction under this part—	3
		4
		5
	(a) to be paid or raised out of the trust property (other than Torres Strait Islander land) as the court considers appropriate; or	6
		7
		8
	(b) to be borne and paid in the way and by the persons as the court considers just.	9
		10

‘Part 8B	Appeals	11
-----------------	----------------	----

‘115	Who may appeal	12
	‘(1) A person who made representations to the Minister under part 2, division 3A about a proposed declaration under section 13B(1)(d) may appeal to the Land Court against the decision to make the declaration.	13
		14
		15
		16
	‘(2) A lessee of a residential lease the subject of a decision under section 76B to not renew the lease may appeal to the Land Court against the decision.	17
		18
		19
	‘(3) A person the subject of a decision under section 77A about an amount payable to the person for forfeiture or non-renewal of a residential lease may appeal to the Land Court against the decision.	20
		21
		22
		23
	‘(4) A member of a land trust who is given, or is entitled to be given, an information notice under part 8, division 2 about a decision to remove or suspend the member from the land trust may appeal to the Land Court against the decision.	24
		25
		26
		27

‘116 Starting appeal	1
‘(1) An appeal is started by filing written notice of appeal with the registrar of the Land Court.	2 3
‘(2) The notice of appeal must be filed within 28 days after the person receives the notice of the decision or information notice about the decision.	4 5 6
‘(3) However, the Land Court may, at any time within the 28 days, extend the period for making the appeal.	7 8
‘117 Nature of appeal	9
‘The appeal is by way of rehearing, unaffected by the decision, on the material before the decision-maker and any further evidence allowed by the Land Court.	10 11 12
‘118 Notice of appeal	13
‘A person who appeals against a decision under this part must give a copy of the notice of appeal to—	14 15
(a) for a decision mentioned in section 115(1), (2) or (3)—the decision-maker; or	16 17
(b) for a decision mentioned in section 115(4)—the decision-maker and the land trust.	18 19
‘119 Powers of Land Court on appeal	20
‘(1) In deciding the appeal, the Land Court has the same powers as the decision-maker.	21 22
‘(2) The Land Court may—	23
(a) confirm the decision; or	24
(b) set aside the decision and substitute another decision; or	25
(c) set aside the decision and return the issue to the decision-maker with directions the court considers appropriate.	26 27 28

[s 176]

‘(3) If the Land Court substitutes another decision, the substituted decision is, other than for the purpose of an appeal under this part, taken to be the decision of the decision-maker.’ 1
2
3

Clause 176 Amendment of s 128 (Creation of interests in transferable and claimable land) 4
5

(1) Section 128, heading, ‘and claimable’— 6
omit. 7

(2) Section 128(1)(a)— 8
insert— 9

‘(iv) residential tenancy; or 10

(v) lease or permit granted in relation to transferable land that is Torres Strait Islander trust land; or’. 11
12

(3) Section 128(1)(b)— 13
omit, insert— 14

‘(b) the interest is the transfer, mortgage or sublease of a trustee (Torres Strait Islander) lease; or 15
16

(c) for another interest—the Minister, subject to subsection (2), consents to the creation of the interest.’. 17
18

(4) Section 128(2), ‘subsection (1)(b)’— 19
omit, insert— 20

‘subsection (1)(c)’. 21

(5) Section 128(3), (4) and (5)— 22
omit, insert— 23

‘(3) The Minister may give a relevant entity a written authority dispensing with the need to obtain the Minister’s consent to the creation of a particular type of interest in transferable land if the Minister considers it is appropriate in all the circumstances to give the authority.’. 24
25
26
27
28

(6) Section 128(6)— 29
renumber as section 128(4). 30

-
- (7) Section 128— 1
insert— 2
- ‘(5) In this section— 3
relevant entity means a trustee, under the Land Act, of Torres 4
Strait Islander trust land.’. 5

- Clause 177 Amendment of s 129 (Rights of access to interests preserved)** 6
7
- (1) Section 129(2) and (3), ‘grantees’— 8
omit, insert— 9
‘trustee’. 10
- (2) Section 129(2)(b), ‘Land Tribunal’— 11
omit, insert— 12
‘Land Court’. 13
- (3) Section 129(3)(a), ‘they have’— 14
omit, insert— 15
‘the trustee has’. 16
- (4) Section 129(3)(c)— 17
omit. 18
- (5) Section 129— 19
insert— 20
- ‘(5) If the only practicable way of gaining access to the person’s 21
land is across Torres Strait Islander land that is the subject of a 22
townsite lease— 23
- (a) subsection (2) applies as if a reference to the trustee of 24
the land were a reference to the lessee for the townsite 25
lease; and 26
- (b) subsection (3) does not apply.’. 27

[s 178]

Clause 178	Amendment of s 130 (Persons and bodies representing Crown)	1
		2
(1)	Section 130, heading, ‘Crown’—	3
	<i>omit, insert—</i>	4
	‘State or Commonwealth’.	5
(2)	Section 130, ‘the Crown in right of’—	6
	<i>omit.</i>	7
Clause 179	Amendment of s 131 (Delegation by Minister)	8
	Section 131, from ‘Act’—	9
	<i>omit, insert—</i>	10
	‘Act.’.	11
Clause 180	Omission of s 132 (Delegation by land claims registrar)	12
	Section 132—	13
	<i>omit.</i>	14
Clause 181	Amendment of s 133 (Amendment of description of land)	15
(1)	Section 133(1), ‘or a Torres Strait Islander (non-transferred land) lease’—	16
	<i>omit.</i>	17
	<i>omit.</i>	18
(2)	Section 133(1), ‘grantees’—	19
	<i>omit, insert—</i>	20
	‘trustee’.	21
(3)	Section 133(1), from ‘registrar’ to ‘over, the land’—	22
	<i>omit, insert—</i>	23
	‘chief executive, surrender to the State the deed to the land’.	24
(4)	Section 133(2), from ‘grantee’s’ to ‘grantees’—	25
	<i>omit, insert—</i>	26

‘trustee’s deed, a new deed of grant delineating the amended boundaries is to be issued to the trustee’.

(5) Section 133(3), ‘or lease’—

omit.

(6) Section 133(4), after ‘registrar’—

insert—

‘of titles’.

(7) Section 133(4), ‘or lease’—

omit.

Clause 182 Replacement of s 133A (Dealing with particular trust property)

Section 133A—

omit, insert—

‘133A Dealing with particular trust property

‘(1) Subsection (2) applies to a trustee, other than the State, if the trustee receives an amount paid under section 72B for the value of a dwelling.

‘(2) The trustee must ensure an amount equal to the lease amount received is used by the trustee for housing services for Torres Strait Islanders concerned with the land held by the trustee.

‘(3) Subsection (4) applies to a trustee, other than the State, if the trustee receives an amount paid under section 72B for the value of a dwelling.

‘(4) The trustee must ensure an amount equal to the lease amount received is used by the trustee for housing services for Torres Strait Islanders concerned with the land held by the trustee.

‘(5) In this section—

housing service means—

(a) providing housing to an individual for residential use; or

(b) any of the following kinds of service—

[s 183]

	(i) tenant advisory services;	1
	(ii) tenant advocacy services;	2
	(iii) home maintenance services;	3
	(iv) home modification services;	4
	(v) housing-related referral and information services.	5
	<i>trustee</i> includes a trustee, under the Land Act, of Torres Strait Islander trust land.’.	6 7
Clause 183	Amendment of s 134 (Survey costs etc. to be paid by State)	8 9
	(1) Section 134(1), from ‘section’ to ‘lease’—	10
	<i>omit, insert—</i>	11
	‘section 25 or 133’.	12
	(2) Section 134(2)(b) and (c)—	13
	<i>omit, insert—</i>	14
	‘(b) a surrender, under or for this Act, of a deed of grant mentioned in paragraph (a).’.	15 16
Clause 184	Amendment of s 134A (Application of Financial Administration and Audit Act 1977)	17 18
	(1) Section 134A, heading, ‘Administration and Audit Act 1977’—	19 20
	<i>omit, insert—</i>	21
	‘ Accountability Act 2009 ’.	22
	(2) Section 134A(2)(a), ‘land claims registrar’—	23
	<i>omit, insert—</i>	24
	‘chief executive’.	25
Clause 185	Amendment of s 135 (Regulation-making power)	26
	Section 135(2)—	27

omit, insert—

- | | |
|---|----------------------|
| | 1 |
| ‘(2) Without limiting subsection (1), a regulation may make provision for— | 2
3 |
| (a) matters relevant to the operations, including the functions, of a land trust; and | 4
5 |
| (b) the indemnification of members of a land trust from personal liability; and | 6
7 |
| (c) rules for land trusts, including, for example, the adoption of rules and the matters that must be included in the rules; and | 8
9
10 |
| (d) accounting requirements for land trusts, including, for example, keeping accounts, preparing financial statements, auditing accounts and giving audit reports to the chief executive; and | 11
12
13
14 |
| (e) the minimum annual rental amount payable by the State under a lease granted to the State under this Act.’ | 15
16 |

Clause 186 Insertion of new pt 9A 17

Before part 10— 18

insert— 19

‘Part 9A Validation provision 20

‘135A Retrospective validation of dealings with trustee (Torres Strait Islander) lease 21
22

- | | |
|--|----------------|
| ‘(1) Subsection (2) applies to a trustee (Torres Strait Islander) lease if the lease— | 23
24 |
| (a) was granted under the Land Act, section 57 before 18 July 2008; and | 25
26 |
| (b) was amended, transferred, mortgaged or subleased, during the relevant period, under the Land Act, chapter 3, part 1, division 7. | 27
28
29 |

[s 187]

- ‘(2) The amendment, transfer, mortgage or sublease of the trustee (Torres Strait Islander) lease (the *dealing*) is taken to be, and to always have been, as valid as if—
- (a) the dealing were carried out under this Act; and
 - (b) section 80D, as in force immediately after the commencement of this section, had been in force on the day the dealing was carried out.
- ‘(3) Subsection (4) applies to a trustee (Torres Strait Islander) lease if the lease—
- (a) was granted under the Land Act, section 57 before 18 July 2008; and
 - (b) was amended, transferred, mortgaged or subleased, during the relevant period, under this Act.
- ‘(4) The amendment, transfer, mortgage or sublease of the trustee (Torres Strait Islander) lease (also the *dealing*) is taken to be, and to always have been, as valid as if section 80D, as in force immediately after the commencement of this section, had been in force on the day the dealing was carried out.
- ‘(5) In this section—
- relevant period* means the period starting on 18 July 2008 and ending immediately before the commencement of this section.’.

- Clause 187 Insertion of new pt 10, div 3**
- Part 10—
 - insert*—

‘Division 3	Transitional provisions for	1
	Aboriginal Land and Torres Strait	2
	Islander Land and Other Legislation	3
	Amendment Act 2010	4
‘138	Definitions for div 3	5
	‘In this division—	6
	<i>commencement</i> means the day this division commences.	7
	<i>previous</i> , for a provision of this Act, means the provision as in	8
	force immediately before the commencement.	9
‘139	Torres Strait Islander land—change to beneficiaries	10
	‘(1) This section applies to Torres Strait Islander land granted	11
	before the commencement.	12
	‘(2) On the commencement, the trustee of the land is taken to hold	13
	it for the benefit of Torres Strait Islanders particularly	14
	concerned with the land and their ancestors and descendants.	15
	‘(3) As soon as practicable after the commencement, the chief	16
	executive must give written notice to the registrar of titles that	17
	the land vests in the trustee as mentioned in subsection (2).	18
	‘(4) On receiving the notice, the registrar of titles must record in	19
	the freehold land register that the land is vested as mentioned	20
	in subsection (2).	21
‘140	Continued operation of provisions for appointing	22
	grantees	23
	‘(1) This section applies despite the amendment of this Act by the	24
	<i>Aboriginal Land and Torres Strait Islander Land and Other</i>	25
	<i>Legislation Amendment Act 2010</i> .	26
	‘(2) The Minister may, on or before 1 July 2011 and under	27
	previous section 26, appoint persons the Minister considers	28
	necessary to be the grantees, as trustees for the benefit of	29
	Torres Strait Islanders, of land.	30

[s 188]

- ‘(3) If the Minister appoints grantees under previous section 26, the grantees are, on appointment, taken to be incorporated as a land trust under this Act for the land. 1
2
3
- ‘(4) As soon as practicable after the grantees are incorporated, the Minister must, by gazette notice, state— 4
5
- (a) the name of the land trust; and 6
- (b) the description of the land as stated in the deed of grant held by the grantees; and 7
8
- (c) an address for service of documents on the land trust. 9
- ‘(5) The last 2 words of the name of the land trust must be the words ‘Land Trust’. 10
11

‘141 References to previous provisions after renumbering 12

- ‘(1) A reference in another Act, a regulation or document to a particular previous provision of this Act may, if the context permits, be taken as a reference to any provision of the renumbered Act, all or part of which corresponds, or substantially corresponds, to the previous provision. 13
14
15
16
17
- ‘(2) In this section— 18
- renumbered Act* means this Act as renumbered under the *Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Act 2010*, section 142.’. 19
20
21

Clause 188 Insertion of new pt 11 22

After section 141, as inserted by this Act— 23

insert— 24

‘Part 11 Renumbering of Acts 25

‘142 Amendment to renumber 26

- ‘(1) On the commencement of this section, the provisions of this Act are amended by numbering and renumbering them in the 27
28

same way as a reprint may be numbered and renumbered 1
under the *Reprints Act 1992*, section 43. 2

- ‘(2) Subsection (1) applies to a provision of this Act enacted or 3
otherwise affected (a **relevant provision**) by a provision of an 4
amending Act enacted but uncommenced when subsection (1) 5
is commenced (the **uncommenced provision**), with the 6
following intent for the relevant provision— 7
- (a) if the number of the relevant provision would have 8
changed under subsection (1) had the uncommenced 9
provision commenced— 10
- (i) a number is allocated to the relevant provision as if 11
the uncommenced provision had commenced; and 12
- (ii) when the uncommenced provision commences, the 13
number of the relevant provision is amended by 14
omitting it and inserting the number allocated to it 15
under subparagraph (i); 16
- (b) if the relevant provision would have been omitted or 17
relocated had the uncommenced provision commenced, 18
its number remains the same as it was before the 19
commencement of subsection (1) until the omission or 20
relocation takes effect. 21
- ‘(3) Without limiting the *Reprints Act 1992*, section 43(4), each 22
reference in this Act, and each reference in the *Aboriginal 23
Land Act 1991* to a provision of this Act renumbered under 24
subsection (1), is amended, when the renumbering happens, 25
by omitting the reference to the previous number and inserting 26
the new number. 27
- ‘(4) In this section— 28
amending Act means an Act that amends this Act. 29

‘143 **Expiry of part** 30

‘This part expires on the later of the following— 31

[s 189]

- | | | |
|-----|---|--------|
| (a) | the day after the commencement of the last numbering
or renumbering of a provision done under section 142; | 1
2 |
| (b) | 31 July 2011.? | 3 |

Part 13	Minor and consequential amendments	4 5
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Clause 189	Acts amended	6
	The schedule amends the Acts it mentions.	7

Schedule	Minor and consequential amendments	1
		2
	section 189	3
Aboriginal Land Act 1991		4
1	Section 36(1) and (2), ‘Local Government (Aboriginal Lands) Act 1978’—	5
	<i>omit, insert—</i>	6
	<i>‘Aurukun and Mornington Shire Leases Act 1978’.</i>	7
		8
2	Section 43(1)(b), ‘is reserved’—	9
	<i>omit, insert—</i>	10
	‘are reserved’.	11
3	Section 83J(2), ‘trustee,’—	12
	<i>omit, insert—</i>	13
	‘trustee’.	14
4	Part 5D, heading, ‘Decision making’—	15
	<i>omit, insert—</i>	16
	‘Decision-making’.	17
5	Section 83P, heading, from ‘Provisions’ to ‘possession’—	18
	<i>omit, insert—</i>	19
	‘Provision about entering into possession of’.	20

Schedule

6	Section 132A(1)(a), ‘grantees lease’—	1
	<i>omit, insert—</i>	2
	‘grantee leases’.	3
7	Section 132A(3), ‘subsection (4)’—	4
	<i>omit, insert—</i>	5
	‘subsections (4) and (4A)’.	6
8	Section 132A(9), ‘grantees’—	7
	<i>omit, insert—</i>	8
	‘grantee’.	9
Auditor-General Act 2009		10
1	Schedule, definition <i>appropriate Minister</i>, paragraph (e), ‘Local Government (Aboriginal Lands) Act 1978’—	11
	<i>omit, insert—</i>	12
	‘Aurukun and Mornington Shire Leases Act 1978’.	13
		14
Environmental Protection Act 1994		15
1	Section 38(2)(h), ‘Local Government (Aboriginal Lands) Act 1978’—	16
	<i>omit, insert—</i>	17
	‘Aurukun and Mornington Shire Leases Act 1978’.	18
		19

2	Section 579(6), definition <i>owner</i>, paragraph (b), ‘Local Government (Aboriginal Lands) Act 1978’—	1
	<i>omit, insert—</i>	2
	<i>‘Aurukun and Mornington Shire Leases Act 1978’.</i>	3
		4
Greenhouse Gas Storage Act 2009		5
1	Schedule 2, definition <i>owner</i>, paragraph 1(j), ‘Local Government (Aboriginal Lands) Act 1978’—	6
	<i>omit, insert—</i>	7
	<i>‘Aurukun and Mornington Shire Leases Act 1978’.</i>	8
		9
Information Privacy Act 2009		10
1	Section 126(3), definition <i>responsible Minister</i>, paragraph (c), ‘Local Government (Aboriginal Lands) Act 1978’—	11
	<i>omit, insert—</i>	12
	<i>‘Aurukun and Mornington Shire Leases Act 1978’.</i>	13
		14
Mineral Resources Act 1989		15
1	Schedule, definition <i>owner</i>, paragraph (a)(iv), ‘Local Government (Aboriginal Lands) Act 1978’—	16
	<i>omit, insert—</i>	17
	<i>‘Aurukun and Mornington Shire Leases Act 1978’.</i>	18
		19

Schedule

2	Schedule, definition <i>reserve</i>, paragraph (b), ‘<i>Local Government (Aboriginal Lands) Act 1978</i>’—	1
	<i>omit, insert—</i>	2
	‘ <i>Aurukun and Mornington Shire Leases Act 1978</i> ’.	3
		4
	 Nature Conservation Act 1992	 5
1	Section 45(1)(c), ‘<i>area</i>;’—	6
	<i>omit, insert—</i>	7
	‘ <i>area</i> ; and’.	8
2	Section 70E(1), ‘<i>Council</i>, may’—	9
	<i>omit, insert—</i>	10
	‘ <i>Council may</i> ;’.	11
3	Section 74(c), ‘<i>prohibit</i>’—	12
	<i>omit, insert—</i>	13
	‘ <i>to prohibit</i> ’.	14
4	Section 88(3), ‘<i>subsection (1)</i>’—	15
	<i>omit, insert—</i>	16
	‘ <i>subsection (2)</i> ’.	17
5	Section 95(4), ‘<i>The person</i>’—	18
	<i>omit, insert—</i>	19
	‘ <i>A person</i> ’.	20

6	Section 100A(2)(b), ‘authorise’—	1
	<i>omit, insert—</i>	2
	‘authorising’.	3
7	Section 100B(4), definition <i>recovery plan</i>, example, before ‘Act’—	4
	<i>insert—</i>	5
	‘ <i>Conservation</i> ’.	6
		7
8	Section 101, definition <i>protected area</i>, ‘Wet Tropics Area’—	8
	<i>omit, insert—</i>	9
	‘wet tropics area’.	10
		11
9	Section 134(6), definition <i>registrable conservation agreement</i>, ‘successor’s’—	12
	<i>omit, insert—</i>	13
	‘successors’.	14
		15
10	Section 152A(1)(d)(vi), ‘(iii);’—	16
	<i>omit, insert—</i>	17
	‘(iii).’.	18
11	Section 167(1), ‘(1)’—	19
	<i>omit.</i>	20

	Police Powers and Responsibilities Act 2000	1
1	Schedule 4, heading ‘Local Government (Aboriginal Lands) Act 1978’—	2 3
	<i>omit, insert—</i>	4
	‘Aurukun and Mornington Shire Leases Act 1978’.	5
	Survey and Mapping Infrastructure Act 2003	6
1	Section 62, definition <i>indigenous land</i>, paragraph (b)(ii), ‘Local Government (Aboriginal Lands) Act 1978’—	7 8
	<i>omit, insert—</i>	9
	‘Aurukun and Mornington Shire Leases Act 1978’.	10
	Torres Strait Islander Land Act 1991	11
1	Sections 11(1)(c), 17, 18(1) and 21, ‘Crown’—	12
	<i>omit, insert—</i>	13
	‘State’.	14
2	Part 2, division 4, heading, ‘Claimable and granted’—	15
	<i>omit, insert—</i>	16
	‘Available State’.	17
3	Part 6, heading, from ‘former’—	18
	<i>omit, insert—</i>	19
	‘Torres Strait Islander land by the State or Commonwealth’.	20

4	After section 143, as inserted by this Act—	1	
	<i>insert—</i>	2	
‘Schedule	Dictionary	3	
		section 3’.	4
 Vegetation Management Act 1999		5	
1	Schedule, definition <i>indigenous land</i>, paragraph (a),	6	
	‘Local Government (Aboriginal Lands) Act 1978’—	7	
	<i>omit, insert—</i>	8	
	<i>‘Aurukun and Mornington Shire Leases Act 1978’.</i>	9	