



Queensland

Nature Conservation and Other Legislation Amendment Bill (No. 2) 2013

Includes amendments agreed during Consideration



Queensland

Nature Conservation and Other Legislation Amendment Bill (No. 2) 2013

Contents

		Page
Part 1	Preliminary	
1	Short title	14
2	Commencement	14
Part 2	Amendments commencing on assent	
Division 1	Amendment of Aboriginal Land Act 1991	
3	Act amended	14
4	Amendment of s 170 (Requirements for indigenous management agreement)	14
5	Amendment of s 284 (National park subject to lease to State etc.)	15
6	Amendment of sch 1 (Dictionary)	15
Division 2	Amendment of Civil Liability Act 2003	
7	Act amended	15
8	Amendment of s 7 (Provisions relating to operation of Act)	16
Division 3	Amendment of Forestry Act 1959	
9	Act amended	16
10	Amendment of s 25 (Power to set apart and declare State forests)	16
11	Insertion of new s 25A	17
	25A Particular forest reserve land set apart and declared as State forest	17
12	Amendment of s 28 (Power to set apart and declare timber reserves)	18
13	Omission of s 32AB (When setting apart and declaration, revocation or amalgamation etc. takes effect)	18
14	Replacement of s 96E (Protection from liability)	18
	96E Protection of State officials and the State from liability	18
	96F Protection of plantation officials and licensees from liability	19
	96G Exception to protections against designated proceeding	20

Contents

Division 4	Amendment of Marine Parks Act 2004	
15	Act amended	23
16	Amendment of s 29 (Approval of management plan)	23
17	Amendment of s 31 (Public notice of draft plan)	23
18	Insertion of new s 32A	24
	32A Plan may be combined with another plan.	24
19	Replacement of s 34 (Approval of amendment of management plan)	24
	34 Approval of amendment of management plan	24
20	Amendment of s 36 (Public notice of draft amendment)	25
21	Replacement of s 39 (Review of management plan)	26
	39 Review of management plan	26
22	Amendment of s 147 (Protecting prescribed persons from liability)	26
Division 5	Amendment of Nature Conservation Act 1992	
23	Act amended	29
24	Amendment of s 4 (Object of Act)	30
25	Amendment of s 5 (How object is to be achieved)	30
26	Amendment of s 14 (Classes of protected areas to which Act applies)	31
27	Amendment of s 15 (Management of protected areas)	31
28	Omission of ss 24–26.	31
29	Amendment of s 33A (Chief executive to lodge document for dedication, revocation and amalgamation etc.)	32
30	Omission of s 33B (When dedication, revocation or amalgamation etc. takes effect)	32
31	Amendment of s 37A (Leases must be registered)	32
32	Amendment of s 38 (Leases may be granted under Land Act 1994)	32
33	Amendment of s 40 (Dedication of national park as national park (Aboriginal land) or national park (Torres Strait Islander land))	32
34	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))	33
35	Amendment of s 42 (Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land))	33
36	Amendment of s 42AEA (Particular powers about permitted uses for existing service facilities in national park (Cape York Peninsula Aboriginal land))	34
37	Amendment of s 42AO (Particular powers about permitted uses on land in particular indigenous joint management areas)	35

38	Amendment of s 42AOA (Particular powers about permitted uses for existing service facilities on land in particular indigenous joint management areas)	35
39	Omission of s 42AR (When dedication etc. takes effect)	35
40	Replacement of pt 4, div 4, hdg (Nature refuges, coordinated conservation areas and wilderness areas)	36
	Division 4 Nature refuges and coordinated conservation areas	
41	Omission of s 43 (Meaning of protected area in division)	36
42	Amendment of s 44 (Proposal for declaration of protected area)	36
43	Amendment of s 45 (Conservation agreements)	37
44	Amendment of s 46 (Declaration of protected area)	37
45	Amendment of s 47 (Duration and termination of conservation agreements)	38
46	Amendment of s 48 (Variation or replacement of conservation agreements)	38
47	Amendment of s 51 (Conservation agreements and covenants binding)	39
48	Amendment of s 52 (Liability of State)	40
49	Omission of pt 4, divs 5 and 6	40
50	Renumbering of pt 4, divs 7 and 8	40
51	Omission of s 66 (Cancellation of licences etc.)	40
52	Amendment of s 70A (Purpose of pt 4A and its achievement)	40
53	Amendment of s 70B (Definitions for pt 4A)	41
54	Replacement of pt 4A, div 2, hdg (Dedication and revocation)	41
	Division 2 Revocation of forest reserves	
55	Omission of s 70C (Dedication of forest reserves)	42
56	Omission of s 70D (Naming of forest reserves)	42
57	Amendment of s 70E (Revocation of forest reserves)	42
58	Amendment of s 70EA (Chief executive to lodge document for dedication or revocation)	42
59	Omission of s 70EB (When dedication, revocation or amalgamation takes effect)	42
60	Amendment of s 70M (When designation ends)	43
61	Insertion of new s 88BA	43
	88BA Restrictions relating to dugongs and marine turtles	43
62	Replacement of pt 7, hdg (Management and conservation plans)	44
	Part 7 Management statements, management plans and conservation plans	

Contents

63	Insertion of new pt 7, div 1, hdg	44
	Division 1 Preliminary	
64	Insertion of new pt 7, div 2, hdg	44
	Division 2 Preparing management statement or management plan	
65	Amendment of s 111 (Management plans)	45
66	Amendment of s 112 (Conservation plans)	47
67	Insertion of new s 112 and pt 7, div 3, hdg.	47
	112 Minister may prepare management plan	48
	Division 3 Making and implementing management statements	
68	Replacement of ss 113–116.	49
	113 Management statements to be consistent with management principles etc.	49
	113A Notice of making of management statement	49
	113B When management statement has effect.	50
	113C Implementation of management statement	50
	Division 4 Preparing, approving and implementing management plans	
	114 Application of div 4	51
	115 Preparation of draft plan.	51
	115A Notice of draft plan	51
	115B Obtaining copy of draft plan	52
	116 Submissions to be considered when preparing final management plan.	53
69	Amendment of s 117 (Final management plans)	53
70	Replacement of ss 118 and 119.	53
	118 Approval of final management plan	53
	119 Management plan may be combined with another plan	54
	119A When management plan has effect	54
	119B Management statement ceases to have effect if management plan takes effect	54
71	Amendment of s 120 (Implementation of approved plan).	55
72	Insertion of new pt 7, divs 5–8 and pt 7, div 9, hdg	55
	Division 5 Amendment of management plans	
	120A Procedures for amending management plan	55
	120B Approval of amendment	56
	120C When amendment has effect	57

	Division 6	Publication of management statements and management plans	
	120D	Publication and availability of management statements and management plans	57
	120E	Obtaining copies of management statements or management plans	58
	Division 7	Reviewing management statements and management plans	
	120F	Review of management statements	58
	120G	Review of management plans	59
	Division 8	Conservation plans	
	120I	Conservation plans to be consistent with management principles etc.	60
	120J	Approval of conservation plan	61
	120K	Implementation of conservation plan	61
	Division 9	Miscellaneous provisions	
73		Amendment of s 121 (Plan replaces interim or declared management intent)	61
74		Omission of ss 124 and 125	61
75		Amendment of s 131 (Proof of authority)	61
76		Amendment of s 132 (Advisory committees)	62
77		Amendment of s 133 (Chief executive to keep register)	62
78		Amendment of s 137 (Licences to be consistent with management principles, and management intent or plan)	63
79		Amendment of s 141 (Delegation by chief executive)	63
80		Replacement of s 142 (Protection from liability)	63
	142	Protection from liability	63
81		Amendment of s 158 (False or misleading documents)	67
82		Insertion of new pt 12, div 5	67
	Division 5	Transitional provisions for Nature Conservation and Other Legislation Amendment Act (No. 2) 2013	
	Subdivision 1	Provisions about management of protected areas and conservation plans	
	189	Definitions for sdiv 1	68
	190	Application of amended part 7 to existing dedications or declarations	68
	191	Existing management statements	70
	192	Preparation of other plans not completed at commencement	70

Contents

	193	References to particular protected areas	71
	194	Existing leases must still be registered	71
83		Amendment of schedule (Dictionary)	72
Division 6		Amendment of Recreation Areas Management Act 2006	
84		Act amended	73
85		Amendment of s 19 (Public notice of draft management plan) . . .	73
86		Insertion of new s 22A	74
	22A	Management plan may form part of another document	74
87		Amendment of s 26 (Public notice of draft amendment)	74
88		Amendment of s 27 (Exceptions from ss 25 and 26)	75
89		Replacement of s 29 (Approval of amendment)	75
	29	Approval of amendment	75
90		Replacement of s 31 (Reviewing management plans)	76
	31	Review of management plans	76
91		Insertion of new s 55A	76
	55A	Form of commercial activity permit	76
92		Amendment of s 69 (Chief executive may enter into commercial activity agreement)	76
93		Amendment of s 111 (Unlawfully conducting commercial activity)	77
94		Amendment of s 118 (Unauthorised feeding of animals)	77
95		Amendment of s 120 (Food to be kept from animals)	77
96		Amendment of s 121 (Restriction on animals in recreation area)	78
97		Amendment of s 228 (Protecting officials from liability)	78
98		Amendment of schedule (Dictionary)	81
Part 3		Amendments about tenure commencing by proclamation	
Division 1		Amendment of Forestry Act 1959	
99		Act amended	82
100		Amendment of sch 3 (Dictionary)	83
Division 2		Amendment of Fossicking Act 1994	
101		Act amended	83
102		Amendment of s 3 (Definitions)	83
Division 3		Amendment of Geothermal Energy Act 2010	
103		Act amended	84
104		Amendment of sch 2 (Dictionary)	84
Division 4		Amendment of Greenhouse Gas Storage Act 2009	
105		Act amended	85

106	Amendment of sch 2 (Dictionary)	85
Division 5	Amendment of Land Act 1994	
107	Act amended	85
108	Amendment of sch 6 (Dictionary)	86
Division 6	Amendment of Land Protection (Pest and Stock Route Management) Act 2002	
109	Act amended	87
110	Amendment of sch 3 (Dictionary)	87
Division 7	Amendment of Mineral Resources Act 1989	
111	Act amended	87
112	Amendment of sch 2 (Dictionary)	88
Division 8	Amendment of Nature Conservation Act 1992	
113	Act amended	88
114	Amendment of s 14 (Classes of protected areas to which Act applies)	88
115	Omission of s 16 (Management principles of national parks (scientific))	89
116	Amendment of s 17 (Management principles of national parks)	89
117	Replacement of ss 19A–21	91
	21 Management principles of regional parks.	91
118	Renumbering of s 19AA (Management principles of national parks (Cape York Peninsula Aboriginal land))	91
119	Amendment of s 27 (Prohibition on mining, geothermal activities and GHG storage activities)	92
120	Amendment of s 28 (Meaning of protected area in division)	92
121	Amendment of pt 4, div 2, sdiv 2, hdg (Dedication, revocation and amalgamation)	92
122	Replacement of s 29 (Dedication of protected areas)	92
	29 Dedication of protected areas	93
123	Amendment of s 31 (Trustees of protected areas)	93
124	Amendment of s 34 (Leases etc. over protected areas)	93
125	Amendment of s 35 (Chief executive's powers about permitted uses in national parks or national parks (recovery))	93
126	Amendment of s 35A (Chief executive's powers about permitted uses for existing service facilities in national parks or national parks (recovery))	94
127	Amendment of s 36 (Authorities for new national park or national park (recovery))	95
128	Amendment of s 39D (Definition for sdiv 4A)	95

Contents

129	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))	95
130	Amendment of s 42 (Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land))	95
131	Amendment of s 42AB (Dedication of Aboriginal land as national park (Cape York Peninsula Aboriginal land))	96
132	Amendment of s 42AC (Dedication of other land as national park (Cape York Peninsula Aboriginal land))	96
133	Amendment of s 42AEA (Particular powers about permitted uses for existing service facilities in national park (Cape York Peninsula Aboriginal land))	96
134	Amendment of s 42AI (Declaration of Aboriginal land as indigenous joint management area)	96
135	Amendment of s 42AJ (Declaration of other land as an indigenous joint management area)	96
136	Amendment of s 42AO (Particular powers about permitted uses on land in particular indigenous joint management areas)	97
137	Amendment of s 42AOA (Particular powers about permitted uses for existing service facilities on land in particular indigenous joint management areas)	97
138	Amendment of s 42AP (Authorities for new national park or national park (recovery) that is an indigenous joint management area)	97
139	Replacement of pt 4, div 3A (Regeneration plans for national parks (recovery))	97
	Division 3A Special management areas and resource use areas	
	42A Declaration of special management area	98
	42B When declaration of special management area ends	99
	42C Declaration of resource use area	99
140	Amendment of s 46 (Declaration of nature refuges)	100
141	Amendment of s 61 (Property in cultural and natural resources)	100
142	Amendment of s 62 (Restriction on taking etc. of cultural and natural resources of protected areas)	100
143	Amendment of s 67 (Compensation when protected area declared)	101
144	Replacement of s 69 (Preservation of landholders' interests)	102
	69 Preservation of landholders' interests	102
145	Amendment of s 70 (Unlawful use of certain words)	102
146	Insertion of new s 70AA	103
	70AA Regulations may define extent of area	103
147	Amendment of s 70B (Definitions for pt 4A)	103

148	Amendment of s 111 (Chief executive to prepare management statement)	103
149	Amendment of s 134 (Records to be maintained by registrar) . . .	104
150	Amendment of s 141 (Delegation by chief executive)	105
151	Amendment of s 142 (Protection from liability)	105
152	Omission of s 173R (Provision for stock grazing in particular national parks)	105
153	Insertion of new pt 12, div 5, sdiv 2	106
	Subdivision 2 Provisions about classes of protected areas	
195	Definitions for sdiv 2	106
196	National parks (scientific) taken to be national parks and special management areas (scientific)	106
197	National parks (recovery) taken to be national parks and special management areas (controlled action)	107
198	Conservation parks taken to be regional parks	108
199	Resources reserves taken to be regional parks and regional park (resource use area)	108
200	References to particular protected areas	108
201	Trustees of conservation parks and resources reserves continue	109
202	Change in class does not affect instruments applying to an area	110
203	Particular previous use authorities continue	110
204	Deciding application for lease etc. for a protected area of an old class	111
205	Transitional regulation-making power	112
154	Amendment of schedule (Dictionary)	112
Division 9	Amendment of Petroleum Act 1923	
155	Act amended	114
156	Amendment of s 2 (Definitions)	114
Division 10	Amendment of Petroleum and Gas (Production and Safety) Act 2004	
157	Act amended	114
158	Amendment of sch 2 (Dictionary)	114
Division 11	Amendment of Survey and Mapping Infrastructure Act 2003	
159	Act amended	115
160	Amendment of s 66 (Non-application of sdivs 2 to 4 to particular land)	115

Contents

161	Amendment of s 95 (Non-application of sdivs 2 to 4 to particular land)	115
Division 12	Amendment of Vegetation Management Act 1999	
162	Act amended	116
163	Amendment of s 7 (Application of Act)	116
Part 4	Amendments about forest reserves commencing by proclamation	
Division 1	Amendment of Forestry Act 1959	
164	Act amended	116
165	Amendment of s 25 (Power to set apart and declare State forests)	117
Division 2	Amendment of Nature Conservation Act 1992	
166	Act amended	117
167	Omission of pt 4A (Forest reserves)	117
168	Insertion of s 183A	117
	183A Application of div 2	118
Division 3	Amendment of Petroleum Act 1923	
169	Act amended	118
170	Replacement of s 4 (Relationship with Nature Conservation Act 1992)	118
	4 Relationship with Nature Conservation Act 1992	118
Division 4	Amendment of Petroleum and Gas (Production and Safety) Act 2004	
171	Act amended	119
172	Replacement of s 6A (Relationship with Nature Conservation Act 1992)	119
	6A Relationship with Nature Conservation Act 1992	119
Division 5	Amendment of Sustainable Planning Act 2009	
173	Act amended	119
174	Amendment of s 10 (Definitions for terms used in development)	120
Part 5	Consequential and minor amendments	
175	Acts amended	120
Schedule 1	Consequential and minor amendments	121
Part 1	Consequential and minor amendments commencing on assent	
	Environmental Protection Act 1994	121
	Land Act 1994	121
	Marine Parks Act 2004	121
	Nature Conservation Act 1992	123

Part 2	Consequential and minor amendments about tenure commencing by proclamation	
	Aboriginal Land Act 1991	126
	Biodiscovery Act 2004	126
	Environmental Protection Act 1994	126
	Forestry Act 1959	127
	Land Act 1994	128
	Land Protection (Pest and Stock Route Management) Act 2002	128
	Liquor Act 1992	128
	Mineral Resources Act 1989	129
	Petroleum Act 1923	129
	Petroleum and Gas (Production and Safety) Act 2004	129
Part 3	Consequential and minor amendments about forest reserves commencing by proclamation	
	Environmental Protection Act 1994	130
	Geothermal Energy Act 2010	131
	Greenhouse Gas Storage Act 2009	131
	Land Act 1994	132
	Nature Conservation Act 1992	133
	Petroleum Act 1923	134
	Petroleum and Gas (Production and Safety) Act 2004	134
	Recreation Areas Management Act 2006	134
	Survey and Mapping Infrastructure Act 2003	135
	Vegetation Management Act 1999	135

2013

A Bill

for

An Act to amend the *Aboriginal Land Act 1991*, the *Civil Liability Act 2003*, the *Environmental Protection Act 1994*, the *Forestry Act 1959*, the *Fossicking Act 1994*, the *Geothermal Energy Act 2010*, the *Greenhouse Gas Storage Act 2009*, the *Land Act 1994*, the *Land Protection (Pest and Stock Route Management) Act 2002*, the *Marine Parks Act 2004*, the *Mineral Resources Act 1989*, the *Nature Conservation Act 1992*, the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004*, the *Recreation Areas Management Act 2006*, the *Survey and Mapping Infrastructure Act 2003*, the *Sustainable Planning Act 2009* and the *Vegetation Management Act 1999* for particular purposes, and to make consequential or minor amendments to the Acts as stated in schedule 1 for purposes related to those particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

Clause 1 Short title

This Act may be cited as the *Nature Conservation and Other Legislation Amendment Act (No. 2) 2013*.

Clause 2 Commencement

Parts 3 and 4 and schedule 1, parts 2 and 3 commence on a day to be fixed by proclamation.

Part 2 Amendments commencing on assent

Division 1 Amendment of Aboriginal Land Act 1991

Clause 3 Act amended

This division amends the *Aboriginal Land Act 1991*.

Note—

See also the amendments in schedule 1, part 2.

Clause 4 Amendment of s 170 (Requirements for indigenous management agreement)

(1) Section 170(1)(d) and (g), before ‘management plan’—
insert—

management statement or

- (2) Section 170(5)—

insert—

management statement means a management statement under the *Nature Conservation Act 1992*.

Clause 5 Amendment of s 284 (National park subject to lease to State etc.)

- (1) Section 284(7), from ‘required’—

omit, insert—

prepared under section 112 of that Act.

- (2) Section 284(12)—

insert—

management plan, for national park land, means a statement of specific objectives and policies relating to the planning, use, development and management of the national park land.

Clause 6 Amendment of sch 1 (Dictionary)

Schedule 1, definition *management plan*—

omit.

**Division 2 Amendment of Civil Liability Act
2003**

Clause 7 Act amended

This division amends the *Civil Liability Act 2003*.

[s 8]

Clause 8 Amendment of s 7 (Provisions relating to operation of Act)

Section 7(2)—

insert—

Note—

See, for example, the following provisions giving protection from civil liability to particular persons—

- the *Forestry Act 1959*, sections 96E, 96F and 96G
- the *Marine Parks Act 2004*, section 147
- the *Nature Conservation Act 1992*, section 142
- the *Recreation Areas Management Act 2006*, section 228.

Division 3 Amendment of Forestry Act 1959

Clause 9 Act amended

This division amends the *Forestry Act 1959*.

Note—

See also the amendments in—

- part 3, division 1
- part 4, division 1
- schedule 1, part 2.

Clause 10 Amendment of s 25 (Power to set apart and declare State forests)

Section 25, ‘forest any Crown land, or any land or part thereof which may then be a timber reserve.’—

omit, insert—

forest—

- (a) any Crown land; or

- (b) any land that is, or is part of, a timber reserve; or
- (c) any land that is, or is part of, a forest reserve under the *Nature Conservation Act 1992*.

Clause 11 Insertion of new s 25A

After section 25—

insert—

25A Particular forest reserve land set apart and declared as State forest

- (1) This section applies if forest reserve land is set apart and declared as a State forest.
- (2) The land ceases to be land in a forest reserve under the *Nature Conservation Act 1992*.
- (3) On the setting apart and declaring of the land as State forest—
 - (a) this Act applies to the land and its management; and
 - (b) the *Nature Conservation Act 1992*, section 70G does not apply to the land.
- (4) This section applies despite the *Nature Conservation Act 1992*, section 70G(4).
- (5) To remove any doubt, it is declared that the setting apart and declaration of the land as a State forest does not extinguish or affect native title or native title rights and interests in relation to the land.
- (6) In this section—

forest reserve land means land that—

 - (a) is, or is part of, a forest reserve under the *Nature Conservation Act 1992*; and

[s 12]

(b) is land to which the *Nature Conservation Act 1992*, section 70G applies.

Clause 12 Amendment of s 28 (Power to set apart and declare timber reserves)

Section 28(1), after ‘regulation’—

insert—

made before 30 June 2014

Clause 13 Omission of s 32AB (When setting apart and declaration, revocation or amalgamation etc. takes effect)

Section 32AB—

omit.

Clause 14 Replacement of s 96E (Protection from liability)

Section 96E—

omit, insert—

96E Protection of State officials and the State from liability

- (1) A State official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a State official, the liability attaches instead to the State.
- (3) Also, the State or a State official is not civilly liable in a designated proceeding for an act done, or omission made, in—
 - (a) the performance or purported performance of a function under this Act; or
 - (b) the exercise or purported exercise of a power under this Act; or

(c) the management or operation of a State forest or timber reserve.

(4) This section is subject to section 96G.

(5) In this section—

damages includes any form of monetary compensation.

designated proceeding means a proceeding for damages based on a liability for personal injury, damage to property or economic loss resulting from personal injury or damage to property, and, for a fatal injury, includes a proceeding for the deceased's dependants or estate.

personal injury see the *Civil Liability Act 2003*, schedule 2.

State official means—

- (a) the Minister; or
- (b) the chief executive; or
- (c) a forest officer; or
- (d) a public service employee or another employee of the State; or
- (e) a person acting, on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses), under the direction of a person mentioned in paragraph (a), (b), (c) or (d).

96F Protection of plantation officials and licensees from liability

- (1) A plantation official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a plantation official, the liability

[s 14]

attaches instead to the plantation licensee who employed the official when the act was done or the omission was made.

- (3) Also, a plantation licensee or plantation official is not civilly liable in a designated proceeding as defined under section 96E for an act done, or omission made, in—
 - (a) the performance or purported performance of a function under this Act; or
 - (b) the exercise or purported exercise of a power under this Act.
- (4) This section is subject to section 96G.
- (5) In this section—

plantation official means—

 - (a) a plantation officer; or
 - (b) an employee of a plantation licensee; or
 - (c) a person acting, on a voluntary basis (irrespective of whether the person receives out-of-pocket expenses), under the direction of a person mentioned in paragraph (a) or (b).

96G Exception to protections against designated proceeding

- (1) This section applies if, other than for this section, an entity would not be civilly liable for an act or omission because of section 96E(3) or 96F(3) (the ***protection***).
- (2) The protection does not apply to liability—
 - (a) arising from the entity's—
 - (i) construction, installation or maintenance of a relevant fixture, or a

road, that is defective other than because of a natural event; or

(ii) failure to give adequate notice of a relevant fixture, or a road, that is defective other than because of a natural event; or

(iii) carrying out of a non-exempt activity; or

Examples of a natural event—

a storm, flood, period of heavy rain

(b) for an MAIA injury incurred by the entity as an insured person; or

(c) for an injury for which compensation is payable under the *Workers' Compensation and Rehabilitation Act 2003* (the WCA) incurred by the entity in the entity's capacity as an employer.

(3) For subsection (2)(c), the following is immaterial—

(a) whether compensation for the injury is actually claimed under the WCA;

(b) whether the entitlement to seek damages as defined under section 96E for the injury is regulated under the WCA.

(4) In this section—

compensation see the WCA, section 9.

defective includes damaged or destroyed.

insured person see the *Motor Accident Insurance Act 1994* (the MAIA), section 4.

MAIA injury means a personal injury as defined under section 96E to which the MAIA applies.

non-exempt activity means the following—

[s 14]

- (a) if the entity is the State or a State official, an activity (a ***programmed activity***) that is the programmed—
 - (i) shooting or poisoning of animals; or
 - (ii) burning or poisoning of vegetation;
- (b) if the entity is a plantation licensee or plantation official—
 - (i) a programmed activity conducted by or for a plantation licensee; or
 - (ii) an activity related to plantation forestry.

relevant fixture means a building, structure or other thing constructed or installed by or for the following—

- (a) if the entity is the State or a State official—the State;
- (b) if the entity is a plantation licensee or plantation official—a plantation licensee.

Examples—

- a lookout or boardwalk
- a stairway
- a fence or other barrier
- the following and anything else used for a recreational purpose—
 - a flying fox ride or zipline ride
 - a rope or swing over a river or waterhole
 - a ramp or jump on a mountain bike trail
 - an anchor point for rock climbing

road—

- (a) generally—see the *Transport Operations (Road Use Management) Act 1995*, schedule 4; and

- (b) if the entity is the State or a State official—includes a State-controlled road as defined under the *Transport Infrastructure Act 1994*, schedule 6.

Division 4 Amendment of Marine Parks Act 2004

Clause 15 Act amended

This division amends the *Marine Parks Act 2004*.

Note—

See also the amendments in schedule 1, part 1.

Clause 16 Amendment of s 29 (Approval of management plan)

Section 29(2) to (4)—

omit.

Clause 17 Amendment of s 31 (Public notice of draft plan)

- (1) Section 31, heading, ‘Public notice’—

omit, insert—

Notice

- (2) Section 31(1)—

omit, insert—

- (1) The Minister must publish a notice about the draft plan on the department’s website.

- (3) Section 31(3), ‘28 days after the public notice is given’—

omit, insert—

20 business days after the notice is published

- (4) Section 31(5)(b), ‘28 days’—

[s 18]

omit, insert—

20 business days

Clause 18 Insertion of new s 32A

After section 32—

insert—

32A Plan may be combined with another plan

A management plan may be combined with 1 or more of the following—

- (a) a management plan for another marine park;
- (b) a management plan for an area dedicated or declared under the *Nature Conservation Act 1992*;
- (c) a management plan for a recreation area under the *Recreation Areas Management Act 2006*.

Clause 19 Replacement of s 34 (Approval of amendment of management plan)

Section 34—

omit, insert—

34 Approval of amendment of management plan

- (1) If an amendment of a management plan has been prepared under sections 35 to 37, the following person may, by gazette notice, approve the final amendment—
 - (a) if the amendment is of a type mentioned in section 36(5) or (6)—the Minister; or
 - (b) otherwise—the Governor in Council.
- (2) The gazette notice must state where a copy of the approved amendment is available for inspection.

Clause 20 Amendment of s 36 (Public notice of draft amendment)

(1) Section 36, heading, ‘Public notice’—

omit, insert—

Notice

(2) Section 36(1)—

omit, insert—

(1) The Minister must publish a notice about the draft amendment on the department’s website.

(3) Section 36(3), ‘28 days after the public notice is given’—

omit, insert—

20 business days after the notice is published

(4) Section 36(5)—

insert—

(c) to make a change to ensure the plan is consistent with State government policy.

(5) Section 36—

insert—

(6A) If subsection (5)(c) applies for an amendment, the Minister must publish a notice on the department’s website stating—

(a) the amendments made to the plan; and

(b) the reasons for the amendments.

(6) Section 36(7)(b), ‘28 days’—

omit, insert—

20 business days

(7) Section 36(6A) and (7)—

renumber as section 36(7) and 36(8).

[s 21]

Clause 21 Replacement of s 39 (Review of management plan)

Section 39—

omit, insert—

39 Review of management plan

- (1) The Minister must review the operation of the management plan for each marine park not later than 10 years after its approval.
- (2) On completion of the review, the Minister may—
 - (a) prepare a new management plan for the marine park; or
 - (b) amend the existing management plan for the marine park; or
 - (c) leave the existing management plan for the marine park unchanged.

Clause 22 Amendment of s 147 (Protecting prescribed persons from liability)

(1) Section 147—

insert—

- (2A) Also, the State or a prescribed person is not civilly liable in a proceeding for an act done, or omission made, in—
 - (a) the performance or purported performance of a function under this Act; or
 - (b) the exercise or purported exercise of a power under this Act; or
 - (c) the management or operation of a marine park.
- (2B) However, subsection (3) does not apply to any liability of the State or a prescribed person arising from the State's or prescribed person's—

- (a) construction, installation or maintenance of a State fixture, or State road, that is defective other than because of a natural event; or
- (b) failure to give adequate notice of a State fixture, or State road, that is defective other than because of a natural event; or
- (c) carrying out of a State management activity.

Examples of a natural event for paragraphs (a) and (b)—
a storm, flood, period of heavy rain

(2C) Also, subsection (3) does not apply in relation to—

- (a) any liability of the State or a prescribed person for an MAIA injury incurred by the State or prescribed person as an insured person; or
- (b) any liability of the State or a prescribed person for an injury for which compensation is payable under the *Workers' Compensation and Rehabilitation Act 2003* incurred by the State or prescribed person in the State's or prescribed person's capacity as an employer.

(2D) For subsection (5)(b), the following is immaterial—

- (a) whether compensation for the injury is actually claimed under the *Workers' Compensation and Rehabilitation Act 2003*;
- (b) whether the entitlement to seek damages for the injury is regulated under that Act.

(2) Section 147(3), definition *prescribed person*, paragraph (e)—
omit, insert—

- (e) a person acting under—

[s 22]

- (i) the authority, under this Act, of a person mentioned in paragraph (a), (b), (c) or (d); or
- (ii) a direction given under this Act by a person mentioned in paragraph (a), (b), (c) or (d).

(3) Section 147(3)—

insert—

compensation see the *Workers' Compensation and Rehabilitation Act 2003*, section 9.

damages includes any form of monetary compensation.

defective includes damaged or destroyed.

insured person see the *Motor Accident Insurance Act 1994*, section 4.

MAIA injury means a personal injury to which the *Motor Accident Insurance Act 1994* applies.

personal injury see the *Civil Liability Act 2003*, schedule 2.

proceeding means a proceeding for damages based on a liability for personal injury, damage to property or economic loss resulting from personal injury or damage to property, and, for a fatal injury, includes a proceeding for the deceased's dependants or estate.

State fixture means a building, structure or other thing constructed or installed by the State including, for example, the following—

- (a) a boardwalk, jetty, lookout or mooring;
- (b) a stairway;
- (c) a fence or other barrier;
- (d) a thing used for a recreational purpose.

Examples for paragraph (d)—

-
- a flying fox ride or zipline ride
 - a rope or swing over a river or waterhole
 - a pontoon
 - an anchor point for rock climbing

State management activity means—

- (a) programmed shooting or poisoning of animals; or
- (b) programmed burning or poisoning of vegetation.

State road means—

- (a) a State-controlled road within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or
- (b) another road, within the meaning of the *Transport Operations (Road Use Management) Act 1995*, constructed by the State.

- (4) Section 147(2A) to (3)—
renumber as section 147(3) to (7).

Division 5 Amendment of Nature Conservation Act 1992

Clause 23 Act amended

This division amends the *Nature Conservation Act 1992*.

Note—

See also the amendments in—

- part 3, division 8
- part 4, division 2
- schedule 1, parts 1 and 3.

[s 24]

Clause 24 Amendment of s 4 (Object of Act)

Section 4, ‘nature.’—

omit, insert—

nature while allowing for the following—

- (a) the involvement of indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom;
- (b) the use and enjoyment of protected areas by the community;
- (c) the social, cultural and commercial use of protected areas in a way consistent with the natural and cultural and other values of the areas.

Clause 25 Amendment of s 5 (How object is to be achieved)

(1) Section 5, ‘The conservation of nature’—

omit, insert—

The object of this Act

(2) Section 5(c), dot point, subparagraph (iii), ‘the’—

omit.

(3) Section 5(c), after dot point—

insert—

- the management of protected areas having regard to any management statement for the areas;

(4) Section 5(e), after dot point—

insert—

- providing for the ecologically sustainable use of protected areas by the preparation of management

statements for use in managing the areas;

Clause 26 Amendment of s 14 (Classes of protected areas to which Act applies)

Section 14(j) to (l)—

omit.

Clause 27 Amendment of s 15 (Management of protected areas)

(1) Section 15(1)(b)(iii), ‘or a wilderness area’—

omit.

(2) Section 15(1)(b)(iv)(A), before ‘management plan’—

insert—

management statement or

(3) Section 15(1)(c)—

omit, insert—

(c) if a management plan is in effect for the area—the management plan for the area.

(4) Section 15—

insert—

(4) If a management statement is in effect for a protected area, the statement is to be considered in managing the area.

Clause 28 Omission of ss 24–26

Sections 24 to 26—

omit.

management statement or management plan for the national park land under section 113A or 118

Clause 34 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))

(1) Section 41(2), from ‘land), the’—

omit, insert—

land)—

- (a) the chief executive may prepare a management statement for the land; or
- (b) the Minister may prepare a management plan for the land.

(2) Section 41(3)—

omit, insert—

- (3) Part 7 applies to the management statement or management plan as if it were a management statement or management plan for a protected area.

(3) Section 41(4), ‘The Minister must prepare the management plan’—

omit, insert—

The management statement or management plan must be prepared

(4) Section 41(5)(b), before ‘management plan’—

insert—

management statement or

Clause 35 Amendment of s 42 (Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land))

(1) Section 42(2), from ‘land), the’—

[s 36]

omit, insert—

land)—

- (a) the chief executive may prepare a management statement for the land; or
- (b) the Minister may prepare a management plan for the land.

(2) Section 42(3)—

omit, insert—

- (3) Part 7 applies to the management statement or management plan as if it were a management statement or management plan for a protected area.

(3) Section 42(4), ‘The Minister must prepare the management plan’—

omit, insert—

The management statement or management plan must be prepared

(4) Section 42(5)(b), before ‘management plan’—

insert—

management statement or

Clause 36 Amendment of s 42AEA (Particular powers about permitted uses for existing service facilities in national park (Cape York Peninsula Aboriginal land))

(1) Section 42AEA(1), ‘land), may’—

omit, insert—

land) may

(2) Section 42AEA—

insert—

- (2A) As soon as practicable after a lease is granted under subsection (1), the chief executive must

lodge the lease with the chief executive (lands)
for registration.

- (3) Section 42AEA(2A) and (3)—
renumber as section 42AEA(3) and (4).

Clause 37 Amendment of s 42AO (Particular powers about permitted uses on land in particular indigenous joint management areas)

Section 42AO—

insert—

- (3) As soon as practicable after a lease is granted under subsection (1), the chief executive must lodge the lease with the chief executive (lands) for registration.

Clause 38 Amendment of s 42AOA (Particular powers about permitted uses for existing service facilities on land in particular indigenous joint management areas)

- (1) Section 42AOA—

insert—

- (2A) As soon as practicable after a lease is granted under subsection (1), the chief executive must lodge the lease with the chief executive (lands) for registration.
- (2) Section 42AOA(2A) and (3)—
renumber as section 42AOA(3) and (4).

Clause 39 Omission of s 42AR (When dedication etc. takes effect)

Section 42AR—

omit.

[s 40]

Clause 40 Replacement of pt 4, div 4, hdg (Nature refuges, coordinated conservation areas and wilderness areas)

Part 4, division 4, heading—

omit, insert—

Division 4 Nature refuges and coordinated conservation areas

Clause 41 Omission of s 43 (Meaning of *protected area* in division)

Section 43—

omit.

Clause 42 Amendment of s 44 (Proposal for declaration of protected area)

(1) Section 44, heading, ‘protected area’—

omit, insert—

nature refuge

(2) Section 44(1), ‘protected area’—

omit, insert—

nature refuge

(3) Section 44(2)(a), ‘area’—

omit, insert—

nature refuge

(4) Section 44(2)(b)—

omit, insert—

(b) specify the proposed management intent for the nature refuge.

Clause 43 Amendment of s 45 (Conservation agreements)

- (1) Section 45, heading, after ‘agreements’—
insert—
for nature refuges
- (2) Section 45(1)(a), ‘protected area’—
omit, insert—
nature refuge
- (3) Section 45(1)(b)—
omit.
- (4) Section 45(1)(c) and (d), ‘area’—
omit, insert—
nature refuge
- (5) Section 45(1)(c) and (d)—
renumber as section 45(1)(b) and (c).
- (6) Section 45(3), ‘the class of area’—
omit, insert—
a nature refuge
- (7) Section 45(5)(e), (f) and (i), ‘area’—
omit, insert—
nature refuge
- (8) Section 45(5)(l), from ‘the area’—
omit, insert—
the nature refuge, including the implementation of any
management plan for the nature refuge.

Clause 44 Amendment of s 46 (Declaration of protected area)

- (1) Section 46, heading ‘protected area’—
omit, insert—

[s 45]

nature refuges

- (2) Section 46(1)—
omit, insert—
- (1) A regulation may declare a specified area of State land, or the area the subject of a conservation agreement, as a nature refuge.
- (3) Section 46(2)(a)—
omit, insert—
- (a) the declared management intent for the nature refuge; and
- (4) Section 46(5) and (6)—
omit.
- (5) Section 46(7)—
renumber as section 46(5).

Clause 45 Amendment of s 47 (Duration and termination of conservation agreements)

- (1) Section 47(1)(b), ‘protected area’—
omit, insert—
- nature refuge or coordinated conservation area
- (2) Section 47(2)(a), ‘or wilderness area’—
omit.
- (3) Section 47(2)(a)(ii), ‘area’—
omit, insert—
- nature refuge

Clause 46 Amendment of s 48 (Variation or replacement of conservation agreements)

- (1) Section 48(1), from ‘protected’ to ‘the area’—

omit, insert—

nature refuge or coordinated conservation area (the ***earlier agreement***) may enter into another conservation agreement for the nature refuge or coordinated conservation area

(2) Section 48(2)(a)—

omit, insert—

(a) in the case of a nature refuge—by removing, at the request of the landholder who entered into the agreement, a part of the nature refuge that, in the Minister’s opinion, is no longer needed for, or capable of being used to achieve, the declared management intent for the nature refuge; and

(3) Section 48(2)(b), ‘the area’—

omit, insert—

the coordinated conservation area

(4) Section 48—

insert—

(3A) For a later agreement for a coordinated conservation area, section 45(2) to (5) applies to the later agreement as if a reference to the nature refuge were a reference to the coordinated conservation area.

Clause 47 Amendment of s 51 (Conservation agreements and covenants binding)

Section 51(2), from ‘on’—

omit, insert—

on—

(a) if land in the area to which the agreement applies is subject to a lease, mining interest, geothermal tenure or GHG authority—the

[s 48]

lessee, interest holder or authority holder;
and

- (b) if land in the area to which the agreement applies is subject to an encumbrance—the person entitled to the benefit of the encumbrance.

Clause 48 Amendment of s 52 (Liability of State)

Section 52(2)(b), ‘protected area’—

omit, insert—

nature refuge or coordinated conservation area

Clause 49 Omission of pt 4, divs 5 and 6

Part 4, divisions 5 and 6—

omit.

Clause 50 Renumbering of pt 4, divs 7 and 8

Part 4, divisions 7 and 8—

renumber as part 4, divisions 5 and 6

Clause 51 Omission of s 66 (Cancellation of licences etc.)

Section 66—

omit.

Clause 52 Amendment of s 70A (Purpose of pt 4A and its achievement)

- (1) Section 70A(1), ‘areas within State forests, timber reserves, Land Act reserves or unallocated State land’—

omit, insert—

forest reserves

(2) Section 70A(2)—

omit.

(3) Section 70A(3), ‘part, each’—

omit, insert—

part or the land ceasing to be forest reserve under the
Forestry Act 1959, section 25A, each

(4) Section 70A(3)—

renumber as section 70A(2).

Clause 53 Amendment of s 70B (Definitions for pt 4A)

Section 70B, definition *forest reserve*—

omit, insert—

forest reserve means an area of land dedicated as a forest reserve under section 70C as in force before the commencement of the *Nature Conservation and Other Legislation Amendment Act (No. 2) 2013*, section 55 if—

- (a) the dedication has not been revoked under section 70E; and
- (b) the land has not ceased to be land in a forest reserve under the *Forestry Act 1959*, section 25A.

Clause 54 Replacement of pt 4A, div 2, hdg (Dedication and revocation)

Part 4A, division 2, heading—

omit, insert—

Division 2

Revocation of forest reserves

[s 55]

Clause 55 Omission of s 70C (Dedication of forest reserves)

Section 70C—

omit.

Clause 56 Omission of s 70D (Naming of forest reserves)

Section 70D—

omit.

Clause 57 Amendment of s 70E (Revocation of forest reserves)

Section 70E—

insert—

- (4) Also, subsection (2) does not affect the power of the Governor in Council to make a regulation under the *Forestry Act 1959*, section 25 to set apart and declare as a State forest any forest reserve or part of a forest reserve.

Clause 58 Amendment of s 70EA (Chief executive to lodge document for dedication or revocation)

- (1) Section 70EA, heading, ‘dedication or’—

omit.

- (2) Section 70EA(1), ‘section 70C or 70E for the dedication or’—

omit, insert—

section 70E for the

- (3) Section 70EA(3), ‘dedication or’—

omit.

Clause 59 Omission of s 70EB (When dedication, revocation or amalgamation takes effect)

Section 70EB—

omit.

Clause 60 Amendment of s 70M (When designation ends)

Section 70M—

insert—

- (c) the area ceases to be forest reserve under the *Forestry Act 1959*, section 25A.

Clause 61 Insertion of new s 88BA

After section 88B—

insert—

88BA Restrictions relating to dugongs and marine turtles

- (1) A person must not sell or give away, at commercial food premises, a prescribed animal or prescribed product.

Maximum penalty—3000 penalty units or 2 years imprisonment.

- (2) In this section—

commercial food premises—

- (a) means premises on or from which food is sold or given away as a part of a business operating from the premises; but

Examples of a business for paragraph (a)—

restaurant, cafe, recreation club

- (b) does not include premises—

- (i) being used in association with a public event; and
(ii) on or from which the selling or giving away of food takes place only occasionally.

[s 62]

Examples of premises for paragraph (b)—

a hall at which a community fair is being held, a temporary stall at a cultural fair

dugong means the mammal *Dugong dugon*.

marine turtle means a turtle of the family Cheloniidae or Dermochelyidae.

prescribed animal means a protected marine turtle or dugong.

prescribed product means anything made or derived from a prescribed animal.

Clause 62 Replacement of pt 7, hdg (Management and conservation plans)

Part 7, heading—

omit, insert—

Part 7 Management statements, management plans and conservation plans

Clause 63 Insertion of new pt 7, div 1, hdg

Part 7, before section 110—

insert—

Division 1 Preliminary

Clause 64 Insertion of new pt 7, div 2, hdg

After section 110—

insert—

**Division 2 Preparing management
statement or management
plan**

Clause 65 Amendment of s 111 (Management plans)

- (1) Section 111, heading—
omit, insert—
111 Chief executive to prepare management statement
- (2) Section 111(1), (5), (6) and (7), ‘Minister’—
omit, insert—
chief executive
- (3) Section 111(1), (5), (6), (7) and (8), ‘plan’—
omit, insert—
statement
- (4) Section 111(1)(b)(iii)—
omit.
- (5) Section 111(1)(b)(iv)—
renumber as section 111(1)(b)(iii).
- (6) Section 111(2), ‘Minister is not required to prepare a management plan’—
omit, insert—
chief executive is not required to prepare a management statement
- (7) Section 111(2)(a), before ‘management plan’—
insert—
management statement (an *existing management statement*) or
- (8) Section 111(2)(b), ‘either of the following apply’—

[s 65]

omit, insert—

any of the following applies—

(9) Section 111(2)(b)(i), before ‘existing management plan’—

insert—

existing management statement or

(10) Section 111(2)(b)(ii)—

omit, insert—

(ii) if there is an existing management statement in effect for the existing protected area—the chief executive amends the existing management statement to apply to the newly dedicated protected area; or

(iii) if there is an existing management plan in effect for the existing protected area—the Minister amends the existing management plan to apply to the newly dedicated protected area.

(11) Section 111—

insert—

(3) Also, the chief executive is not required to prepare a management statement for the area if the Minister notifies the chief executive that the Minister is preparing a management plan for the area.

(12) Section 111(5), ‘plans’—

omit, insert—

statements

(13) Section 111—

insert—

- (9) A management statement for an area may be combined with a management statement for another area dedicated or declared under this Act.
- (14) Section 111(5) to (9)—
renumber as section 111(4) to (8).

Clause 66 Amendment of s 112 (Conservation plans)

- (1) Section 112, heading—
omit, insert—
- 112 Preparation of conservation plans**
- (2) Section 112(3)—
omit.
- (3) Section 112(4)—
renumber as section 112(3).
- (4) Section 112—
insert—
- (4) If the conservation plan is to provide for matters for which a regulation may be made under this Act, subsection (3) only applies if the Minister is satisfied it is more appropriate in the circumstances for a conservation plan to provide for the matters.
- (5) Section 112—
relocate to part 7, division 8 as inserted by this Act and
renumber as section 120H.

Clause 67 Insertion of new s 112 and pt 7, div 3, hdg

- After section 111—
insert—

[s 67]

112 Minister may prepare management plan

- (1) This section applies to—
 - (a) an area mentioned in section 111(1); or
 - (b) an area that is an aggregation of areas assigned a name under section 64.
- (2) The Minister may prepare a management plan for the area if the Minister is satisfied it is appropriate in the circumstances having regard to the following—
 - (a) the importance of the area’s natural or cultural resources and values;
 - (b) any significant or particular threats to the area’s natural or cultural resources and values;
 - (c) any significant public interest concerns for the area’s natural or cultural resources and values;
 - (d) the nature of any proposed commercial or recreational uses of, and opportunities for, the area and the proposed management of those uses.
- (3) The Minister may after the declaration of a nature refuge, other than under section 49, prepare a management plan for the area of the refuge if the landholder of the area agrees.
- (4) A management plan for a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area must—
 - (a) be prepared jointly with the indigenous landholder for the protected area; and
 - (b) be consistent with any indigenous land use agreement, and the indigenous management agreement, for the protected area.

Division 3 Making and implementing management statements

Clause 68 Replacement of ss 113–116

Sections 113 to 116—

omit, insert—

113 Management statements to be consistent with management principles etc.

- (1) A management statement for an area must—
 - (a) be consistent with the management principles for the class of the area; and
 - (b) if the area is a nature refuge or coordinated conservation area—be consistent with any conservation agreement or conservation covenant for the area; and
 - (c) state management outcomes for the protection, presentation and use of the area and the policies, guidelines and actions to achieve the outcomes.
- (2) A management statement for an area may be inconsistent with a wild river declaration that applies to a part or all of the protected area only to the extent the management statement provides for a greater level of protection for the area than is provided for in the declaration.

113A Notice of making of management statement

- (1) The chief executive must notify the making of a management statement by gazette notice.
- (2) The gazette notice must state where a copy of the management statement is available for inspection.

[s 68]

113B When management statement has effect

A management statement has effect on and from the later of the following days—

- (a) the day the gazette notice for the statement is published under section 113A;
- (b) the commencement day stated in the statement.

Note—

See, however, section 119B.

113C Implementation of management statement

On the making of a management statement for an area, the following persons must give effect to the statement—

- (a) if the area is a national park (Aboriginal land) or national park (Torres Strait Islander land)—the board of management for the area;
- (b) if the area is a national park (Cape York Peninsula Aboriginal land) or an indigenous joint management area—the indigenous landholder for the area and the chief executive;
- (c) if the area is under the control of trustees appointed under section 31—the trustees;
- (d) if paragraphs (a), (b) and (c) do not apply—the chief executive.

Division 4 Preparing, approving and implementing management plans

114 Application of div 4

This division applies if the Minister decides to prepare a management plan for an area under section 112.

115 Preparation of draft plan

The Minister must prepare a draft of the management plan (a *draft plan*).

115A Notice of draft plan

- (1) This section applies to a draft plan other than a draft plan for a nature refuge that is subject to a conservation agreement.
- (2) The Minister must—
 - (a) publish a notice about the draft plan on the department's website; and

Editor's note—

The department's website is
<www.nprsr.qld.gov.au>.

- (b) ensure the draft plan is available for inspection as stated in the notice.
- (3) The notice must—
 - (a) state the area to which the draft plan relates; and
 - (b) state that a copy of the draft plan is available for inspection without charge—
 - (i) during business hours at the department's head office and at each departmental office in the general area in which the area is located; and

[s 68]

- (ii) on the department's website; and
 - (c) invite members of the public, including landholders and indigenous people with an interest in the area, to make written submissions about the draft plan to the Minister, within a stated period.
- (4) The stated period must be at least 20 business days after the notice is published.
- (5) Subsection (3)(c) does not apply if—
 - (a) the draft plan is substantially uniform or complementary with—
 - (i) another Act; or
 - (ii) a law of the Commonwealth or another State; or
 - (b) the following applies—
 - (i) the draft plan adopts an Australian or international protocol, standard, code, or intergovernmental agreement or instrument;
 - (ii) an assessment of the benefits and costs associated with the plan has already been made;
 - (iii) the assessment was made for, or is relevant to, Queensland; or
 - (c) the Minister considers there has already been adequate other public consultation about the matters the subject of the plan.

115B Obtaining copy of draft plan

- (1) On payment of the fee, if any, decided by the chief executive, a person may obtain a copy of the draft plan from the chief executive.

-
- (2) The fee must not be more than the reasonable cost incurred by the chief executive for printing the copy and giving it to the person.
 - (3) For subsection (2), if the person asks for the copy to be mailed to the person, the fee may include the reasonable cost of mailing the copy to the person.

116 Submissions to be considered when preparing final management plan

When preparing a final management plan, the Minister must consider all submissions made to the Minister about the draft plan under section 115A(3)(c).

Clause 69 Amendment of s 117 (Final management plans)

Section 117(1)(a), ‘refuge, coordinated conservation area or wilderness area’—

omit, insert—

refuge or coordinated conservation area

Clause 70 Replacement of ss 118 and 119

Sections 118 and 119—

omit, insert—

118 Approval of final management plan

- (1) The Governor in Council may, by gazette notice, approve a final management plan.
- (2) The gazette notice must state—
 - (a) where a copy of the management plan is available for inspection; and
 - (b) if, immediately before the approval of the management plan, a management statement is in effect for the area—the management

[s 70]

statement ceases to have effect on the day the management plan takes effect.

119 Management plan may be combined with another plan

A management plan for an area may be combined with 1 or more of the following—

- (a) a management plan for another area dedicated or declared under this Act;
- (b) a management plan for a marine park under the *Marine Parks Act 2004*;
- (c) a management plan for a recreation area under the *Recreation Areas Management Act 2006*.

119A When management plan has effect

A management plan has effect on and from the later of the following days—

- (a) the day the gazette notice approving the plan is published;
- (b) the commencement day stated in the plan.

119B Management statement ceases to have effect if management plan takes effect

- (1) This section applies if—
 - (a) a management statement is in effect for an area; and
 - (b) a management plan for the area takes effect under section 119A.
- (2) On the management plan taking effect, the management statement ceases to have effect for the area.

Clause 71 Amendment of s 120 (Implementation of approved plan)

(1) Section 120, heading, ‘approved’—

omit, insert—

management

(2) Section 120(2)—

omit.

Clause 72 Insertion of new pt 7, divs 5–8 and pt 7, div 9, hdg

After section 120—

insert—

**Division 5 Amendment of
management plans**

120A Procedures for amending management plan

(1) Sections 114 to 117 apply to the amendment of a management plan as if a reference to a management plan were a reference to an amendment of a management plan.

(2) However, sections 115 to 116 do not apply to the amendment of a management plan if—

(a) the amendment contains only amendments to—

(i) correct an error in the plan; or

(ii) make a change other than a change of substance in the plan; or

(iii) make a change to ensure the plan is consistent with State government policy about the management of the area to which the plan applies; or

(iv) if the plan or a regulation provides that an amendment of a stated type may be

[s 72]

- made to the plan by amendment under this subsection—make an amendment of that type; or
- (b) for a management plan that is substantially uniform or complementary with another Act or a law of the Commonwealth or another State—the amendment contains only amendments needed to ensure the plan remains substantially uniform or complementary; or
 - (c) the amendment only adopts an Australian or international protocol, standard, code, or intergovernmental agreement or instrument, and an assessment of the benefits and costs associated with the amendment has already been made and the assessment was made for, or is relevant to, Queensland; or
 - (d) the Minister considers there has already been adequate other public consultation about the matters the subject of the amendment.
- (3) If subsection (2)(a)(iii) applies for an amendment of a management plan, the Minister must publish a notice on the department’s website stating—
- (a) the amendments made to the plan; and
 - (b) the reasons for the amendments.

120B Approval of amendment

- (1) An amendment of a management plan may be approved, by gazette notice, by—
 - (a) for an amendment to which section 120A(2) applies—the Minister; or
 - (b) otherwise—the Governor in Council.

- (2) The gazette notice must state where a copy of each of the following is available for inspection—
- (a) the amendment of the management plan;
 - (b) the management plan as amended.

120C When amendment has effect

The amendment of a management plan has effect on and from the later of the following days—

- (a) the day the gazette notice approving the amendment is published;
- (b) the commencement day stated in the amendment.

Division 6 Publication of management statements and management plans

120D Publication and availability of management statements and management plans

- (1) The chief executive must publish a copy of each management statement and management plan, as amended from time to time, on the department's website.

Editor's note—

The department's website is <www.nprsr.qld.gov.au>.

- (2) The copy must be published—
- (a) within 20 business days after the statement or plan first takes effect under this part; or
 - (b) for a copy incorporating an amendment of the statement or plan—within 20 business

[s 72]

days after the day on which the amendment takes effect.

- (3) Also, the chief executive must keep a copy of each management statement and management plan, as amended from time to time, available for inspection, without charge by the chief executive, by members of the public during normal business hours at—
 - (a) the department's head office; and
 - (b) each departmental office in the general area in which the area the subject of the statement or plan is located.

120E Obtaining copies of management statements or management plans

- (1) On payment of the fee decided by the chief executive, a person may obtain a copy of a management statement or management plan, as in effect at a particular time, from the chief executive.
- (2) The fee must not be more than the reasonable cost incurred by the chief executive for printing the copy and giving it to the person.
- (3) For subsection (2), if the person asks for the copy to be mailed to the person, the fee may include the reasonable cost of mailing the copy to the person.

Division 7 Reviewing management statements and management plans

120F Review of management statements

- (1) The chief executive must review the management

statement for an area not later than 10 years after it is made.

- (2) On completing the review, the chief executive may—
 - (a) prepare a new management statement for the area; or
 - (b) amend the existing management statement for the area; or
 - (c) leave the existing management statement for the area unchanged.

120G Review of management plans

- (1) The Minister must review the operation of a management plan for an area not later than 10 years after its approval.
- (2) On completing the review, the Minister may—
 - (a) prepare a new management plan for the area; or
 - (b) amend the existing management plan for the area; or
 - (c) leave the existing management plan for the area unchanged; or
 - (d) if the Minister is satisfied it is appropriate in the circumstances, decide that the existing management plan be replaced with a management statement for the area.
- (3) If the Minister decides, under subsection (2)(d), that the existing management plan be replaced with a management statement for the area—
 - (a) the Governor in Council may revoke the approval of the existing management plan; and

[s 72]

- (b) if the approval is revoked—the chief executive must prepare a management statement for the area under this part to take effect immediately after the revocation.
- (4) Subsection (3)(b) does not apply if the area is amalgamated with another area for which a management statement is required under section 111, and either—
 - (a) the regulation dedicating or declaring the amalgamated area declares that an existing management statement or existing management plan applies to the amalgamated area; or
 - (b) an existing management statement or existing management plan is amended to apply it to the amalgamated area.
- (5) Also, if the area is a protected area, section 111(4) applies to the area as if section 111(4)(b) also included a reference to a management statement required to be prepared under subsection (3)(b).

Division 8 Conservation plans

120I Conservation plans to be consistent with management principles etc.

- (1) A conservation plan for wildlife must be consistent with the management principles for the class of wildlife.
- (2) A conservation plan for wildlife, or a class of wildlife, may provide for the State to be divided into wildlife districts.

120J Approval of conservation plan

- (1) A conservation plan does not have effect until it has been approved by the Governor in Council.
- (2) A conservation plan is subordinate legislation.

120K Implementation of conservation plan

On approval of a conservation plan, the chief executive must give effect to the plan.

Division 9 Miscellaneous provisions

Clause 73 Amendment of s 121 (Plan replaces interim or declared management intent)

Section 121(1)—

omit, insert—

- (1) A management statement or management plan for a coordinated conservation area replaces the interim management intent for the area.

Clause 74 Omission of ss 124 and 125

Sections 124 and 125—

omit.

Clause 75 Amendment of s 131 (Proof of authority)

- (1) Section 131, from ‘protector first’—

omit, insert—

protector—

- (a) produces his or her identity card for the person’s inspection before exercising the power; or

[s 76]

(b) has his or her identity card displayed so it is clearly visible to the person when exercising the power.

(2) Section 131—

insert—

(2) However, if it is not practicable to comply with subsection (1), the conservation officer or honorary protector must produce the identity card for the person's inspection at the first reasonable opportunity.

(3) For subsection (1), a conservation officer or honorary protector does not exercise a power in relation to a person only because the conservation officer or honorary protector has entered a place as mentioned in section 145(2)(c) or (d).

Clause 76 Amendment of s 132 (Advisory committees)

(1) Section 132(1)(b)—

omit.

(2) Section 132(1)(c) and (d)—

renumber as section 132(1)(b) and (c).

(3) Section 132(2)(a)—

omit.

(4) Section 132(2)(b) to (d)—

renumber as section 132(1)(a) to (c).

Clause 77 Amendment of s 133 (Chief executive to keep register)

Section 133(1)(a), after 'management'—

insert—

statements, management plans

Clause 78 Amendment of s 137 (Licences to be consistent with management principles, and management intent or plan)

Section 137(1)(b), ‘or management’—

omit, insert—

or any management

Clause 79 Amendment of s 141 (Delegation by chief executive)

Section 141(3), definition *prescribed provision*, after ‘38,’—

insert—

39G,

Clause 80 Replacement of s 142 (Protection from liability)

Section 142—

omit, insert—

142 Protection from liability

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (3) Also, the State or an official is not civilly liable in a proceeding for an act done, or omission made, in—
 - (a) the performance or purported performance of a function under this Act in relation to a State protected area; or
 - (b) the exercise or purported exercise of a power under this Act in relation to a State protected area; or
 - (c) the management or operation of a State protected area.

[s 80]

- (4) However, subsection (3) does not apply to any liability of the State or an official arising from the State's or official's—
- (a) construction, installation or maintenance of a State fixture, or State road, that is defective other than because of a natural event; or
 - (b) failure to give adequate notice of a State fixture, or State road, that is defective other than because of a natural event; or
 - (c) carrying out of a State management activity.
- Examples of a natural event for paragraphs (a) and (b)—*
a storm, flood, period of heavy rain
- (5) Also, subsection (3) does not apply in relation to—
- (a) any liability of the State or an official for an MAIA injury incurred by the State or official as an insured person; or
 - (b) any liability of the State or an official for an injury for which compensation is payable under the *Workers' Compensation and Rehabilitation Act 2003* incurred by the State or official in the State's or official's capacity as an employer.
- (6) For subsection (5)(b), the following is immaterial—
- (a) whether compensation for the injury is actually claimed under the *Workers' Compensation and Rehabilitation Act 2003*;
 - (b) whether the entitlement to seek damages for the injury is regulated under that Act.
- (7) In this section—
- compensation** see the *Workers' Compensation and Rehabilitation Act 2003*, section 9.

damages includes any form of monetary compensation.

defective includes damaged or destroyed.

insured person see the *Motor Accident Insurance Act 1994*, section 4.

MAIA injury means a personal injury to which the *Motor Accident Insurance Act 1994* applies.

official means each of the following—

- (a) the Minister;
- (b) the chief executive;
- (c) for a State protected area for which an indigenous management agreement has been entered into—the indigenous landholder with whom the indigenous management agreement has been entered into for the land;
- (d) a conservation officer;
- (e) a public service employee or another employee of the State authorised to carry out functions under this Act;
- (f) a person acting under a direction given under this Act by a person mentioned in paragraph (a), (b), (c), (d) or (e).

personal injury see the *Civil Liability Act 2003*, schedule 2.

proceeding means a proceeding for damages based on a liability for personal injury, damage to property or economic loss resulting from personal injury or damage to property, and, for a fatal injury, includes a proceeding for the deceased's dependants or estate.

State fixture means a building, structure or other thing constructed or installed by the State including, for example, the following—

[s 80]

- (a) a boardwalk, jetty, lookout or mooring;
- (b) a stairway;
- (c) a fence or other barrier;
- (d) a thing used for a recreational purpose.

Examples for paragraph (d)—

- a flying fox ride or zipline ride
- a rope or swing over a river or waterhole
- a ramp or jump on a mountain bike trail
- an anchor point for rock climbing

State management activity means—

- (a) programmed shooting or poisoning of animals; or
- (b) programmed burning or poisoning of vegetation.

State protected area means—

- (a) a national park (scientific); or
- (b) a national park; or
- (c) a national park (Aboriginal land); or
- (d) a national park (Torres Strait Islander land);
or
- (e) a national park (Cape York Peninsula
Aboriginal land); or
- (f) a national park (recovery); or
- (g) a conservation park; or
- (h) a resources reserve.

State road means—

- (a) a State-controlled road within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or

- (b) another road, within the meaning of the *Transport Operations (Road Use Management) Act 1995*, constructed by the State.

Clause 81 Amendment of s 158 (False or misleading documents)

- (1) Section 158, ‘a conservation officer’—
omit, insert—
 an authorised person
- (2) Section 158(a) and (b), ‘the officer’—
omit, insert—
 the authorised person
- (3) Section 158—
relocate to part 8 and *renumber* as section 143A.

Clause 82 Insertion of new pt 12, div 5

- Part 12—
insert—

[s 82]

Division 5 **Transitional provisions for
Nature Conservation and
Other Legislation
Amendment Act (No. 2)
2013**

Subdivision 1 **Provisions about
management of protected
areas and conservation
plans**

189 Definitions for sdiv 1

In this subdivision—

amended part 7 means part 7 as in force at the commencement.

commencement means the commencement of this subdivision.

previous part 7 means part 7 as in force before the commencement.

properly made submission, for a public notice under previous part 7 about a proposal to prepare a draft management plan or conservation plan, or about a draft management plan or conservation plan, means a submission made in response to the notice before the day specified in the notice as the day by which submissions may be made (whether or not the submission was made before or after the commencement).

**190 Application of amended part 7 to existing
dedications or declarations**

- (1) This section applies if—

- (a) before the commencement, a management plan was required to be prepared for a protected area or indigenous joint management area; and
 - (b) at the commencement, a management plan is not in effect for the area.
- (2) From the commencement—
- (a) the requirement under previous part 7 to prepare a management plan for the area stops applying for the area; and
 - (b) amended part 7 applies for the area, subject to subsections (3) to (5) and section 191, as if it had been in force when the area was dedicated or declared.
- (3) Subsections (4) and (5) apply if the Minister had started the process for preparing a management plan for the area under previous part 7 before the commencement.
- (4) Anything done by the Minister for preparing the plan under previous part 7 is taken to have been done by—
- (a) the chief executive; or
 - (b) if the Minister decides to prepare a management plan for the area under amended part 7—the Minister.
- (5) If the Minister had given a public notice under previous part 7 about a proposal to prepare a draft management plan, or about a draft management plan, for the area—
- (a) the chief executive must have regard to any properly made submissions for the notice in preparing a management statement under amended part 7 for the area; or
 - (b) if the Minister decides to prepare a management plan for the area—the Minister

[s 82]

must have regard to any properly made submissions for the notice in preparing the management plan.

191 Existing management statements

- (1) This section applies to a document about an area prepared by the chief executive that—
 - (a) is consistent with the requirements for a management statement under section 113; and
 - (b) at the commencement, is published on the department's website.
- (2) The document—
 - (a) is taken to be a management statement made by the chief executive under amended part 7; and
 - (b) takes effect as a management statement for the area on the commencement.
- (3) To remove any doubt, it is declared that sections 113A and 113B do not apply to the management statement.

192 Preparation of other plans not completed at commencement

- (1) This section applies if, before the commencement, the Minister had started, but not completed, the process for preparing a plan for an area or wildlife under previous part 7.
- (2) From the commencement, amended part 7 applies for the preparation of the plan, subject to subsections (3) and (4).
- (3) Anything done by the Minister for preparing the plan under previous part 7 is taken to have been done by the Minister under amended part 7.

- (4) If the Minister had given a public notice under previous part 7 about a proposal to prepare the draft plan, or about the draft plan, for the area or wildlife, the Minister must have regard to any properly made submissions for the notice in preparing the final plan for the area or wildlife.
- (5) In this section—
- plan* means—
- (a) a management plan to amend another management plan; or
 - (b) a conservation plan; or
 - (c) a conservation plan to amend another conservation plan.
- wildlife* includes a class of wildlife.

193 References to particular protected areas

A reference in an Act or document to any of the following is, if the context permits, redundant—

- (a) a wilderness area under this Act;
- (b) a World Heritage management area under this Act;
- (c) an international agreement area under this Act.

194 Existing leases must still be registered

- (1) This section applies for a lease granted under any of the following provisions as in force before the commencement, if the lease is still in force at the commencement—
- (a) section 35;
 - (b) section 35A;
 - (c) section 36;

[s 83]

- (d) section 42AEA;
 - (e) section 42AO;
 - (f) section 42AOA.
- (2) As soon as practicable after the commencement, the chief executive must lodge the lease with the chief executive (lands) for registration.
- (3) For the *Land Act 1994*, chapter 6, part 2, the lease is taken to have been registered on the day the lease was granted.

Clause 83 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *conservation agreement*, *coordinated conservation area*, *international agreement area*, *protected wildlife*, *wilderness area*, *World Heritage Convention* and *World Heritage management area*—

omit.

- (2) Schedule—

insert—

conservation agreement means a conservation agreement entered into under—

(a) for a nature refuge—section 45 or 48; or

(b) for a coordinated conservation area—

- (i) section 45 as in force before the commencement of the *Nature Conservation and Other Legislation Amendment Act (No. 2) 2013*, section 43; or

- (ii) section 48.

coordinated conservation area means an area declared as a coordinated conservation area under section 46 as in force before the commencement of the *Nature Conservation and*

Other Legislation Amendment Act (No. 2) 2013, section 44.

management statement means a management statement made by the chief executive under part 7.

protected wildlife means native wildlife prescribed under this Act as—

- (a) extinct in the wild wildlife; or
- (b) endangered wildlife; or
- (c) vulnerable wildlife; or
- (d) near threatened wildlife; or
- (e) least concern wildlife.

Division 6 Amendment of Recreation Areas Management Act 2006

Clause 84 Act amended

This division amends the *Recreation Areas Management Act 2006*.

Note—

See also the amendments in schedule 1, part 3.

Clause 85 Amendment of s 19 (Public notice of draft management plan)

- (1) Section 19, heading, ‘Public notice’—

omit, insert—

Notice

- (2) Section 19(1)—

omit, insert—

[s 86]

- (1) The Minister must publish a notice about the draft plan on the department's website.
- (3) Section 19(3), 'public notice is given'—
omit, insert—
notice is published

Clause 86 Insertion of new s 22A

After section 22—

insert—

22A Management plan may form part of another document

A management plan may be combined with 1 or more of the following—

- (a) a management plan for another recreation area;
- (b) a management plan for a marine park under the *Marine Parks Act 2004*;
- (c) a management plan for an area dedicated or declared under the *Nature Conservation Act 1992*.

Clause 87 Amendment of s 26 (Public notice of draft amendment)

- (1) Section 26, heading, 'Public notice'—

omit, insert—

Notice

- (2) Section 26(1)—

omit, insert—

- (1) The Minister must publish a notice about the draft amendment on the department's website.
- (3) Section 26(3), 'public notice is given'—

omit, insert—

notice is published

Clause 88 Amendment of s 27 (Exceptions from ss 25 and 26)

(1) Section 27(1)—

insert—

(c) to make a change to ensure the plan is consistent with State government policy.

(2) Section 27—

insert—

(3) If subsection (1)(c) applies for an amendment, the Minister must publish a notice on the department's website stating—

- (a) the amendments made to the plan; and
- (b) the reasons for the amendments.

Clause 89 Replacement of s 29 (Approval of amendment)

Section 29—

omit, insert—

29 Approval of amendment

(1) If the final amendment has been prepared under this division, the following person may, by gazette notice, approve the final amendment—

- (a) if the final amendment is an amendment to which section 27 applies—the Minister; or
- (b) otherwise—the Governor in Council.

(2) The gazette notice must state where a copy of the approved final amendment is available for inspection.

[s 90]

Clause 90 Replacement of s 31 (Reviewing management plans)

Section 31—

omit, insert—

31 Review of management plans

- (1) The Minister must review the operation of the management plan for each recreation area not later than 10 years after its approval.
- (2) On completion of the review, the Minister may—
 - (a) prepare a new management plan for the recreation area; or
 - (b) amend the existing management plan for the recreation area; or
 - (c) leave the existing management plan for the recreation area unchanged.

Clause 91 Insertion of new s 55A

Part 4, division 5, after section 55—

insert—

55A Form of commercial activity permit

A commercial activity permit may be combined with either or both of the following—

- (a) a commercial activity permit granted under the *Nature Conservation Act 1992*;
- (b) a permit to conduct a commercial activity in a State forest granted under the *Forestry Act 1959*.

Clause 92 Amendment of s 69 (Chief executive may enter into commercial activity agreement)

Section 69—

insert—

- (3) The commercial activity agreement may be combined with either or both of the following—
- (a) a commercial activity agreement entered into with the person under the *Nature Conservation Act 1992*;
 - (b) a commercial activity agreement entered into with the person under the *Marine Parks Act 2004*.

Clause 93 Amendment of s 111 (Unlawfully conducting commercial activity)

(1) Section 111(1)—

omit, insert—

- (1) A person must not conduct a commercial activity in a recreation area unless the person is authorised to conduct the activity under—
- (a) a commercial activity permit; or
 - (b) a commercial activity agreement.

(2) Section 111(3)—

omit.

Clause 94 Amendment of s 118 (Unauthorised feeding of animals)

Section 118(3)(a), ‘guide, hearing or assistance’—

omit, insert—

support

Clause 95 Amendment of s 120 (Food to be kept from animals)

Section 120(2), definition *food*, paragraph (c), ‘guide, hearing or assistance’—

omit, insert—

support

[s 96]

Clause 96 Amendment of s 121 (Restriction on animals in recreation area)

Section 121(2), definition *animal*, paragraph (a), ‘guide, hearing or assistance’—

omit, insert—

support

Clause 97 Amendment of s 228 (Protecting officials from liability)

Section 228(3)—

omit, insert—

- (3) Also, the State or an official is not civilly liable in a proceeding for an act done, or omission made, in—
 - (a) the performance or purported performance of a function under this Act; or
 - (b) the exercise or purported exercise of a power under this Act; or
 - (c) the management or operation of a recreation area.
- (4) However, subsection (3) does not apply to any liability of the State or an official arising from the State’s or official’s—
 - (a) construction, installation or maintenance of a State fixture, or State road, that is defective other than because of a natural event; or
 - (b) failure to give adequate notice of a State fixture, or State road, that is defective other than because of a natural event; or
 - (c) carrying out of a State management activity.

Examples of a natural event for paragraphs (a) and (b)—
a storm, flood, period of heavy rain

-
- (5) Also, subsection (3) does not apply in relation to—
- (a) any liability of the State or an official for an MAIA injury incurred by the State or official as an insured person; or
 - (b) any liability of the State or an official for an injury for which compensation is payable under the *Workers' Compensation and Rehabilitation Act 2003* incurred by the State or official in the State's or official's capacity as an employer.
- (6) For subsection (5)(b), the following is immaterial—
- (a) whether compensation for the injury is actually claimed under the *Workers' Compensation and Rehabilitation Act 2003*;
 - (b) whether the entitlement to seek damages for the injury is regulated under that Act.
- (7) In this section—
- compensation** see the *Workers' Compensation and Rehabilitation Act 2003*, section 9.
- damages** includes any form of monetary compensation.
- defective** includes damaged or destroyed.
- insured person** see the *Motor Accident Insurance Act 1994*, section 4.
- MAIA injury** means a personal injury to which the *Motor Accident Insurance Act 1994* applies.
- official** means—
- (a) the Minister; or
 - (b) the chief executive; or
 - (c) an authorised officer; or
-

[s 97]

- (d) an officer or other employee of the department; or
- (e) a person acting under—
 - (i) the authority, under this Act, of a person mentioned in paragraph (a), (b), (c) or (d); or
 - (ii) a direction given under this Act by a person mentioned in paragraph (a), (b), (c) or (d).

personal injury see the *Civil Liability Act 2003*, schedule 2.

proceeding means a proceeding for damages based on a liability for personal injury, damage to property or economic loss resulting from personal injury or damage to property, and, for a fatal injury, includes a proceeding for the deceased's dependants or estate.

State fixture means a building, structure or other thing constructed or installed by the State including, for example, the following—

- (a) a boardwalk, jetty, lookout or mooring;
- (b) a stairway;
- (c) a fence or other barrier;
- (d) a thing used for a recreational purpose.

Examples for paragraph (d)—

- a flying fox ride or zipline ride
- a rope or swing over a river or waterhole
- a ramp or jump on a mountain bike trail
- an anchor point for rock climbing

State management activity means—

- (a) programmed shooting or poisoning of animals; or

-
- (b) programmed burning or poisoning of vegetation.

State road means—

- (a) a State-controlled road within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or
- (b) another road, within the meaning of the *Transport Operations (Road Use Management) Act 1995*, constructed by the State.

Clause 98 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *assistance dog*, *guide dog* and *hearing dog*—
omit.
- (2) Schedule—
insert—

prescribed structure means equipment or a construction used to facilitate filming or photography, and—

- (a) includes a tower, platform, generator, vehicle, shelter and building; but
- (b) does not include—
 - (i) a camera or camera accessories; or
 - (ii) a tripod; or
 - (iii) a portable hide large enough to shelter only one person; or
 - (iv) a power source consisting of only dry cells or a single wet cell battery; or
 - (v) a vehicle used only for transport or camping under a permit or commercial activity agreement under this Act, the

- schedule 1, part 2.

Clause 100 Amendment of sch 3 (Dictionary)

Schedule 3, definition *protected area*—
omit, insert—

protected area means any of the following under the *Nature Conservation Act 1992*—

- (a) a national park;
- (b) a national park (Aboriginal land);
- (c) a national park (Torres Strait Islander land);
- (d) a regional park.

Division 2 Amendment of Fossicking Act 1994

Clause 101 Act amended

This division amends the *Fossicking Act 1994*.

Clause 102 Amendment of s 3 (Definitions)

Section 3, definition *protected area*, paragraph (a)—
omit, insert—

- (a) any of the following under the *Nature Conservation Act 1992*—
 - (i) a national park;
 - (ii) a national park (Aboriginal land);
 - (iii) a national park (Torres Strait Islander land);
 - (iv) a regional park (general); or

[s 103]

Division 3 Amendment of Geothermal Energy Act 2010

Clause 103 Act amended

This division amends the *Geothermal Energy Act 2010*.

Note—

See also the amendments in schedule 1, part 3.

Clause 104 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *owner*, paragraph 1(h)—

omit, insert—

(h) for a regional park under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—

(i) if, under the *NCA*, the regional park has trustees whose powers are not restricted—the trustees; or

(ii) otherwise—the chief executive of the department in which the *NCA* is administered;

(2) Schedule 2, definition *owner*, paragraph 1(q)(iii) to (vi)—

omit, insert—

(iii) a national park (Torres Strait Islander land);

(iv) a forest reserve.

Division 4 Amendment of Greenhouse Gas Storage Act 2009

Clause 105 Act amended

This division amends the *Greenhouse Gas Storage Act 2009*.

Note—

See also the amendments in schedule 1, part 3.

Clause 106 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *owner*, paragraph 1(h)—

omit, insert—

(h) for a regional park under the *Nature Conservation Act 1992* (the *NCA*) for which there are trustees—

(i) if, under the *NCA*, the regional park has trustees whose powers are not restricted—the trustees; or

(ii) otherwise—the chief executive of the department in which the *NCA* is administered;

(2) Schedule 2, definition *owner*, paragraph 1(q)(iii) to (vi)—

omit, insert—

(iii) a national park (Torres Strait Islander land);

(iv) a forest reserve.

Division 5 Amendment of Land Act 1994

Clause 107 Act amended

This division amends the *Land Act 1994*.

[s 108]

Note—

See also the amendments in schedule 1, parts 1, 2 and 3.

Clause 108 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *conservation park*, *nature conservation area* and *national park—*

omit.

- (2) Schedule 6—

insert—

national park means a national park under the *Nature Conservation Act 1992*.

nature conservation area means any of the following under the *Nature Conservation Act 1992—*

- (a) a national park;
- (b) a regional park;
- (c) a forest reserve.

regional park (general) means a regional park (general) under the *Nature Conservation Act 1992*.

- (3) Schedule 6, definition *rural leasehold land*, paragraphs (d)(i) to (ix)—

omit, insert—

- (i) a national park;
- (ii) a national park (Aboriginal land);
- (iii) a national park (Torres Strait Islander land);
- (iv) a national park (Cape York Peninsula Aboriginal land);
- (v) a regional park;
- (vi) a forest reserve.

Division 6 **Amendment of Land Protection
(Pest and Stock Route
Management) Act 2002**

Clause 109 **Act amended**

This division amends the *Land Protection (Pest and Stock Route Management) Act 2002*.

Note—

See also the amendments in schedule 1, part 2.

Clause 110 **Amendment of sch 3 (Dictionary)**

Schedule 3, definition *State-controlled land*, paragraphs (c) and (d)—

omit, insert—

- (c) a national park, national park (Aboriginal land), national park (Torres Strait Islander land) or regional park (resource use area) under the *Nature Conservation Act 1992*;
- (d) a regional park (general) under the *Nature Conservation Act 1992*, that, under that Act, is not placed under the management of trustees;

Division 7 **Amendment of Mineral Resources
Act 1989**

Clause 111 **Act amended**

This division amends the *Mineral Resources Act 1989*.

Note—

See also the amendments in schedule 1, part 2.

[s 112]

Clause 112 Amendment of sch 2 (Dictionary)

Schedule 2, definition *protected area*—
omit, insert—

protected area means any of the following under the *Nature Conservation Act 1992*—

- (a) a national park;
- (b) a national park (Aboriginal land);
- (c) a national park (Torres Strait Islander land);
- (d) a regional park (general).

Division 8 Amendment of Nature Conservation Act 1992

Clause 113 Act amended

This division amends the *Nature Conservation Act 1992*.

Note—

See also the amendments in—

- part 2, division 5
- part 4, division 2
- schedule 1, parts 1 and 3.

Clause 114 Amendment of s 14 (Classes of protected areas to which Act applies)

Section 14(a) to (i)—

omit, insert—

- (a) national parks; and
- (b) national parks (Aboriginal land); and
- (c) national parks (Torres Strait Islander land);
and

-
- (d) national parks (Cape York Peninsula Aboriginal land); and
 - (e) regional parks; and
 - (f) nature refuges; and
 - (g) coordinated conservation areas.

Clause 115 Omission of s 16 (Management principles of national parks (scientific))

Section 16—

omit.

Clause 116 Amendment of s 17 (Management principles of national parks)

(1) Section 17(1)—

insert—

- (d) provide opportunities for educational and recreational activities in a way consistent with the area's natural and cultural resources and values; and
- (e) provide opportunities for ecotourism in a way consistent with the area's natural and cultural resources and values.

(2) Section 17—

insert—

(1A) However, if the whole or part of a national park is declared as a special management area, the management of the park or part may include—

- (a) for a special management area (controlled action), either or both of the following—
 - (i) the manipulation of the area's natural and cultural resources to protect or

[s 116]

- restore the area's natural or cultural values;
- (ii) the continuation of an existing use of the area consistent with maintaining the area's natural and cultural values; and
- (b) for a special management area (scientific), the following—
 - (i) activities or measures to protect the area's exceptional scientific values;
 - (ii) controlled scientific study and monitoring of the area's natural resources;
 - (iii) the control of threatening processes relating to threatened wildlife, including threatening processes caused by other wildlife and controlling threatening processes by manipulating the threatened wildlife's habitat.
- (3) Section 17(3), 'subsections (1) and (2)'—
omit, insert—
 - subsections (1) to (2)
- (4) Section 17—
insert—
 - (4) In this section—
ecotourism means tourism that is ecologically sustainable and primarily focused on experiencing an area in a way that fosters understanding, appreciation and conservation of the area and its natural and cultural values.
existing use, of a special management area (controlled action), means a lawful use made of the area immediately before the declaration of the

area as a special management area (controlled action).

Clause 117 Replacement of ss 19A–21

Sections 19A to 21—

omit, insert—

21 Management principles of regional parks

- (1) A regional park is to be managed to—
 - (a) conserve and present the area’s cultural and natural resources and their values; and
 - (b) ensure the area is maintained, to the greatest possible extent, in its natural condition; and
 - (c) provide for the controlled use of the area’s cultural and natural resources; and
 - (d) provide opportunities for enjoyment and appreciation of the area and for recreational and commercial activities in the area.
- (2) However, the felling of timber for a commercial purpose must not be conducted in a regional park.
- (3) Subject to subsections (1) and (2), a regional park, or a part of a regional park, that is also an indigenous joint management area is to be managed, as far as practicable, in a way that is consistent with any Aboriginal tradition applicable to the area, including any tradition relating to activities in the area.

Clause 118 Renumbering of s 19AA (Management principles of national parks (Cape York Peninsula Aboriginal land))

Section 19AA—

renumber as section 20.

[s 119]

Clause 119 Amendment of s 27 (Prohibition on mining, geothermal activities and GHG storage activities)

Section 27(1)(a) to (f)—

omit, insert—

- (a) a national park; or
- (b) a national park (Aboriginal land); or
- (c) a national park (Torres Strait Islander land);
or
- (d) a national park (Cape York Peninsula
Aboriginal land); or
- (e) a regional park (general).

Clause 120 Amendment of s 28 (Meaning of *protected area* in division)

Section 28, definition *protected area*—

omit, insert—

protected area means—

- (a) a national park; or
- (b) a regional park.

Clause 121 Amendment of pt 4, div 2, sdiv 2, hdg (Dedication, revocation and amalgamation)

Part 4, division 2, subdivision 2, heading, after ‘amalgamation’—

insert—

of protected areas

Clause 122 Replacement of s 29 (Dedication of protected areas)

Section 29—

omit, insert—

29 Dedication of protected areas

- (1) A regulation may dedicate a specified area of State land as—
 - (a) a national park; or
 - (b) a regional park.
- (2) The classes of protected areas mentioned in subsection (1) are listed in descending order of the level of protection given to them under this Act.

Clause 123 Amendment of s 31 (Trustees of protected areas)

Section 31(1), ‘conservation park or resources reserve’—

omit, insert—

regional park

Clause 124 Amendment of s 34 (Leases etc. over protected areas)

- (1) Section 34(1)(a)(i), ‘national park (scientific), national park or national park (recovery)’—

omit, insert—

national park

- (2) Section 34(1)(a)(ii), ‘conservation park or resources reserve’—

omit, insert—

regional park

Clause 125 Amendment of s 35 (Chief executive’s powers about permitted uses in national parks or national parks (recovery))

- (1) Section 35, heading, ‘or national parks (recovery)’—

omit.

- (2) Section 35(1), ‘or national park (recovery)’—

[s 126]

omit.

- (3) Section 35(1)(b)(i), ‘if the land is in a national park,’—

omit.

- (4) Section 35(1)(b)(ii)—

omit.

- (5) Section 35(1)(b)(iii) to (v)—

renumber as section 35(1)(b)(ii) to (iv).

- (6) Section 35(3)—

omit, insert—

- (3) This section does not apply to a national park, or a part of a national park, that is an indigenous joint management area.

Note—

For an indigenous joint management area, see section 42AO.

Clause 126 Amendment of s 35A (Chief executive’s powers about permitted uses for existing service facilities in national parks or national parks (recovery))

- (1) Section 35A, heading, ‘or national parks (recovery)’—

omit.

- (2) Section 35A(1), ‘or national park (recovery)’—

omit.

- (3) Section 35A(3)—

omit, insert—

- (3) This section does not apply to a national park, or a part of a national park, that is an indigenous joint management area.

- (4) Section 35A(4)—

omit.

-
- Clause 127 Amendment of s 36 (Authorities for new national park or national park (recovery))**
- (1) Section 36, heading and subsections (1)(a) and (6), definition *allowable term*, ‘or national park (recovery)’—
omit.
- (2) Section 36(5A)—
omit, insert—
- (5A) This section does not apply to a national park, or a part of a national park, that is an indigenous joint management area.
- Note—*
- For an indigenous joint management area, see section 42AP.
- Clause 128 Amendment of s 39D (Definition for sdiv 4A)**
- Section 39D, definition *owner*, ‘conservation park or resources reserve’—
omit, insert—
- regional park
- Clause 129 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))**
- (1) Section 41(6)—
omit.
- (2) Section 41(7)—
renumber as section 41(6).
- Clause 130 Amendment of s 42 (Dedication of leasehold land as national park (Aboriginal land) or national park (Torres Strait Islander land))**
- (1) Section 42(6)—

[s 131]

omit.

(2) Section 42(7) and (8)—

renumber as section 42(6) and (7).

Clause 131 Amendment of s 42AB (Dedication of Aboriginal land as national park (Cape York Peninsula Aboriginal land))

Section 42AB(3)—

omit.

Clause 132 Amendment of s 42AC (Dedication of other land as national park (Cape York Peninsula Aboriginal land))

Section 42AC(3)—

omit.

Clause 133 Amendment of s 42AEA (Particular powers about permitted uses for existing service facilities in national park (Cape York Peninsula Aboriginal land))

Section 42AEA(4)—

omit.

Clause 134 Amendment of s 42AI (Declaration of Aboriginal land as indigenous joint management area)

Section 42AI(3)—

omit.

Clause 135 Amendment of s 42AJ (Declaration of other land as an indigenous joint management area)

Section 42AJ(3)—

omit.

-
- Clause 136** **Amendment of s 42AO (Particular powers about permitted uses on land in particular indigenous joint management areas)**
- (1) Section 42AO(1), ‘or national park (recovery)’—
omit.
 - (2) Section 42AO(1)(b)(i), ‘if the land is in a national park—’—
omit.
 - (3) Section 42AO(1)(b)(ii)—
omit.
 - (4) Section 42AO(1)(b)(iii) to (v)—
renumber as section 42AO(1)(b)(ii) to (iv).
- Clause 137** **Amendment of s 42AOA (Particular powers about permitted uses for existing service facilities on land in particular indigenous joint management areas)**
- (1) Section 42AOA(1), ‘or national park (recovery)’—
omit.
 - (2) Section 42AOA(4)—
omit.
- Clause 138** **Amendment of s 42AP (Authorities for new national park or national park (recovery) that is an indigenous joint management area)**
- Section 42AP, ‘or national park (recovery)’—
omit.
- Clause 139** **Replacement of pt 4, div 3A (Regeneration plans for national parks (recovery))**
- Part 4, division 3A—
omit, insert—
-

Division 3A Special management areas and resource use areas

42A Declaration of special management area

- (1) The chief executive may, by notice, declare a prescribed national park, or part of a prescribed national park—
 - (a) as a special management area (controlled action) to allow activities of a type, or for a purpose, stated in—
 - (i) section 17(1A)(a)(i); or
 - (ii) section 17(1A)(a)(ii); or
 - (iii) section 17(1A)(a)(i) and (ii); or
 - (b) as a special management area (scientific) to allow activities of a type, or for a purpose, stated in section 17(1A)(b).
- (2) The notice declaring the special management area must—
 - (a) be erected or displayed at the entrance of the prescribed national park or part of the prescribed national park declared as a special management area; and
 - (b) be easily visible to passers-by; and
 - (c) identify the limits of the area to which the notice applies; and
 - (d) state the prescribed activities that may be carried out in the special management area.
- (3) When the notice is erected or displayed, the chief executive must publish—
 - (a) a copy of the notice on the department's website; and

- (b) a notice in the gazette about the declaration of the special management area.
- (4) In this section—
 - prescribed activities* means the activities of a kind, or for a purpose, mentioned in section 17(1A) for which the special management area was declared.
 - prescribed national park* means—
 - (a) a national park; or
 - (b) a national park (Aboriginal land); or
 - (c) a national park (Torres Strait Islander land); or
 - (d) a national park (Cape York Peninsula Aboriginal land).

42B When declaration of special management area ends

- (1) A declaration made under section 42A(1) ends on the day the chief executive removes the notice declaring the special management area.
- (2) When the notice is removed, the chief executive must—
 - (a) remove the copy of the notice on the department's website; and
 - (b) publish a notice in the gazette about the ending of the declaration of the special management area.

42C Declaration of resource use area

- (1) A regulation may declare a regional park, or part of a regional park, as a resource use area.

[s 140]

Note—

Section 27(1) does not apply to a regional park, or part of a regional park, that is a resource use area.

- (2) However, the regulation may only be made at the same time as the regulation first dedicating the regional park.

Clause 140 Amendment of s 46 (Declaration of nature refuges)

- (1) Section 46(4)—
omit.
- (2) Section 46(5)—
renumber as section 46(4).

Clause 141 Amendment of s 61 (Property in cultural and natural resources)

Section 61(1), ‘national park (scientific), national park, national park (recovery), conservation park or resources reserve’—

omit, insert—

national park or regional park

Clause 142 Amendment of s 62 (Restriction on taking etc. of cultural and natural resources of protected areas)

- (1) Section 62(1)(e)—
omit, insert—
- (e) if the area is a regional park, nature refuge or a coordinated conservation area—an exemption under a regulation.
- (2) Section 62(7), definition *national park*—
omit, insert—

national park includes a national park (Aboriginal land), national park (Torres Strait Islander land) and national park (Cape York Peninsula Aboriginal land).

Clause 143 Amendment of s 67 (Compensation when protected area declared)

- (1) Section 67, heading, ‘protected area’—

omit, insert—

nature refuge

- (2) Section 67(1)—

omit, insert—

- (1) This section applies if a nature refuge is declared under section 49.

- (3) Section 67(2), (3), (6) and (9), definition *existing use*, ‘or regulation’—

omit.

- (4) Section 67(5)(b), ‘protected area or the commencement of the regulation’—

omit, insert—

nature refuge

- (5) Section 67(6)(d)—

omit.

- (6) Section 67(8)—

omit, insert—

- (8) Subsection (2) does not apply to land if—

- (a) when the nature refuge is declared, the area the subject of the declaration is identified as, or including, a critical habitat or an area of major interest in—

- (i) a regulation (the *first regulation*); or

[s 144]

- (ii) a conservation plan; and
- (b) the regulation making the declaration declares that the first regulation or conservation plan continues to apply to the area after the declaration; and
- (c) the landholder receives, or is entitled to receive, compensation under section 137A in relation to the land because of the making of the first regulation or approval of the conservation plan.

Clause 144 Replacement of s 69 (Preservation of landholders' interests)

Section 69—

omit, insert—

69 Preservation of landholders' interests

- (1) The interests of a landholder of land forming part of a protected area are not affected by—
 - (a) the dedication or declaration of the protected area; or
 - (b) the declaration of the protected area, or part of the protected area, as a special management area or resource use area.
- (2) Subsection (1) does not apply to the extent of—
 - (a) any binding conservation agreement, or conservation covenant, in relation to the land; or
 - (b) a regulation giving effect to a management plan for the protected area.

Clause 145 Amendment of s 70 (Unlawful use of certain words)

Section 70(3), 'or 'conservation park' in'—

omit, insert—

in

Clause 146 Insertion of new s 70AA

Part 4, division 6—

insert—

70AA Regulations may define extent of area

- (1) This section applies to a regulation made under section 29(1), 41(5), 42(5), 42AB(2), 42AC(2), 42AI(2), 42AJ(2), 42C or 46(1).
- (2) The regulation may define the extent of the area or land dedicated or declared under the regulation by reference to—
 - (a) a specified depth below the surface of land;
or
 - (b) a specified height above the surface of land.

Clause 147 Amendment of s 70B (Definitions for pt 4A)

Section 70B, definition *protected area*—

omit, insert—

protected area means—

- (a) a national park; or
- (b) a regional park.

Clause 148 Amendment of s 111 (Chief executive to prepare management statement)

Section 111(1)—

omit, insert—

- (1) The chief executive must, as soon as practicable after—
 - (a) the dedication of—

[s 149]

- (i) a national park; or
- (ii) a national park (Cape York Peninsula Aboriginal land); or
- (iii) a regional park; or
- (b) the declaration of—
 - (i) a nature refuge, under section 49; or
 - (ii) a coordinated conservation area; or
 - (iii) an indigenous joint management area;prepare a management statement for the area.

Clause 149 Amendment of s 134 (Records to be maintained by registrar)

- (1) Section 134(1)(c)—
omit.
- (2) Section 134(1)(d)—
renumber as section 134(1)(c).
- (3) Section 134(1), ‘made, the regulation has commenced’—
omit, insert—
made
- (4) Section 134(2)(a)(iii)—
omit.
- (5) Section 134(2)(a)(iv)—
renumber as section 134(2)(a)(iii).
- (6) Section 134(2)(b)(iii)—
omit.
- (7) Section 134(2)(b)(iv)—
renumber as section 134(2)(b)(iii).
- (8) Section 134(3)(c)—

omit.

(9) Section 134(3)(d)—

renumber as section 134(3)(c).

(10) Section 134(4)(c)—

omit.

(11) Section 134(4)(d) and (e)—

renumber as section 134(4)(c) and (d).

Clause 150 Amendment of s 141 (Delegation by chief executive)

Section 141(3), definition *prescribed provision*, ‘42AP or 136.’—

omit, insert—

42AP, 42A or 136.

Clause 151 Amendment of s 142 (Protection from liability)

Section 142(7), definition *State protected area*—

omit, insert—

State protected area means—

- (a) a national park; or
- (b) a national park (Aboriginal land); or
- (c) a national park (Torres Strait Islander land);
or
- (d) a national park (Cape York Peninsula
Aboriginal land); or
- (e) a regional park.

Clause 152 Omission of s 173R (Provision for stock grazing in particular national parks)

Section 173R—

omit.

[s 153]

Clause 153 Insertion of new pt 12, div 5, sdiv 2

Part 12, division 5, as inserted by this Act—

insert—

Subdivision 2 Provisions about classes of protected areas

195 Definitions for sdiv 2

In this subdivision—

amendment Act means the *Nature Conservation and Other Legislation Amendment Act (No. 2) 2013*.

commencement means the commencement of this subdivision.

old class, of protected area, means any of the following classes of protected area under the unamended Act—

- (a) national park (scientific);
- (b) national park (recovery);
- (c) conservation park;
- (d) resources reserve.

unamended Act means this Act as in force before the commencement.

196 National parks (scientific) taken to be national parks and special management areas (scientific)

- (1) On the commencement, the area of each national park (scientific)—
 - (a) continues as a national park under this Act as if it had been dedicated under this Act as a national park; and

- (b) is taken to be declared under this Act as a special management area (scientific).
- (2) As soon as practicable after the commencement, the chief executive must—
 - (a) erect or display a notice for the special management area complying with the requirements stated in section 42A(2); and
 - (b) publish a copy of the notice on the department’s website and in the gazette.
- (3) In this section—

national park (scientific) means an area that, immediately before the commencement, was a national park (scientific) under this Act.

197 National parks (recovery) taken to be national parks and special management areas (controlled action)

- (1) On the commencement, the area of each national park (recovery)—
 - (a) continues as a national park under this Act as if it had been dedicated under this Act as a national park; and
 - (b) is taken to be declared under this Act as a special management area (controlled action) to allow activities of the type, or for the purpose, stated in section 17(1A)(a)(i).
- (2) As soon as practicable after the commencement, the chief executive must—
 - (a) erect or display a notice for the special management area complying with the requirements stated in section 42A(2); and
 - (b) publish a copy of the notice on the department’s website and in the gazette.
- (3) In this section—

[s 153]

national park (recovery) means an area that, immediately before the commencement, was a national park (recovery) under this Act.

198 Conservation parks taken to be regional parks

(1) On the commencement, the area of each conservation park continues under this Act as a regional park as if it had been dedicated under this Act as a regional park.

(2) In this section—

conservation park means an area that, immediately before the commencement, was a conservation park under this Act.

199 Resources reserves taken to be regional parks and regional park (resource use area)

(1) On the commencement, the area of each resources reserve—

(a) continues under this Act as a regional park as if it had been dedicated under this Act as a regional park; and

(b) despite section 42C, is taken to be declared under this Act as a regional park (resource use area).

(2) In this section—

resources reserve means an area that, immediately before the commencement, was a resources reserve under this Act.

200 References to particular protected areas

From the commencement, in an Act or document—

- (a) a reference to a national park (scientific) may, if the context permits, be taken to be a reference to—
 - (i) a national park; or
 - (ii) a special management area (scientific); and
- (b) a reference to a national park (recovery) may, if the context permits, be taken to be a reference to—
 - (i) a national park; or
 - (ii) a special management area (controlled action); and
- (c) a reference to a conservation park may, if the context permits, be taken to be a reference to—
 - (i) a regional park; or
 - (ii) a regional park (general); and
- (d) a reference to a resources reserve may, if the context permits, be taken to be a reference to—
 - (i) a regional park; or
 - (ii) a regional park (resource use area).

201 Trustees of conservation parks and resources reserves continue

- (1) This section applies if, immediately before the commencement, an area was a conservation park or resources reserve under the management of trustees under this Act.
- (2) A person who was, immediately before the commencement, a trustee of the area under this Act, continues to be a trustee of the area as a regional park under this Act.

- (3) The trust over the area continues as a trust under this Act over the area as a regional park.

202 Change in class does not affect instruments applying to an area

- (1) This section applies if, under this subdivision, an area is changed from an old class of protected area to another class of protected area (the *new class*).
- (2) Any of the following (each a *relevant instrument*) in force for the area immediately before the commencement continues to apply to the area as a protected area of the new class—
 - (a) a lease, agreement, licence, permit or other authority;
 - (b) a management statement;
 - (c) a management plan;
 - (d) a direction, requirement, notice or decision given or made, in writing, under this Act.
- (3) The relevant instrument continues in force for the area until it expires, is terminated or repealed or otherwise ends under its terms or this Act.
- (4) Subsections (2) and (3) apply even if the relevant instrument authorises the carrying out of activities in the area that are not consistent with the management principles for protected areas of the new class.

203 Particular previous use authorities continue

- (1) This section applies to a previous use authority taken to have been granted by the chief executive under section 173R(2) as in force before the commencement if the authority is still in force immediately before the commencement.

- (2) Section 173R(3) and (4) of the unamended Act continue to apply to the previous use authority as if the amendment Act had not been enacted.

204 Deciding application for lease etc. for a protected area of an old class

- (1) This section applies to an application for a lease, agreement, licence, permit or other authority (the *relevant authority*) that—
- (a) was made, but not decided, under this Act before the commencement; and
 - (b) is for a protected area of an old class that, under this subdivision, is changed to a protected area of another class (the *new class*).
- (2) The application is to be decided, as an application for the relevant authority for a protected area of the old class, under the unamended Act, as if the amendment Act had not been enacted.
- (3) If the application is granted, the chief executive must give or grant to the applicant the relevant authority for the area as a protected area of the new class.
- (4) To remove any doubt, it is declared that subsection (3) applies even if the carrying out of the activities under the relevant authority is not consistent with the management principles for protected areas of the new class.
- (5) However, the grounds on which the chief executive may refuse an application to renew the relevant authority include the ground that the carrying out of the activities under the authority is not consistent with the management principles for protected areas of the new class.

[s 154]

205 Transitional regulation-making power

- (1) A regulation (a *transitional regulation*) may make provision of a saving or transitional nature about a matter—
 - (a) necessary or convenient to give effect to, allow or facilitate—
 - (i) a change in the classes of protected areas under this Act; or
 - (ii) any matter related to changes in the classes of protected areas under this Act; and
 - (b) for which this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a day that is not earlier than the day on which this section commences.
- (3) A transitional regulation must declare it is a transitional regulation.
- (4) This section and any transitional regulation expire 1 year after the day on which this section commences.

Clause 154 Amendment of schedule (Dictionary)

- (1) Schedule, definitions *conservation park*, *national park (recovery)*, *national park (scientific)*, *prescribed protected area*, *regeneration plan* and *resources reserve*—
omit.
- (2) Schedule—
insert—

existing service facility means—
 - (a) for land in a national park, other than land stated in paragraph (c)—a service facility in

- existence on the land immediately before the land was dedicated as a national park; or
- (b) for land in a national park (Cape York Peninsula Aboriginal land)—a service facility in existence on the land immediately before the land was dedicated as a national park (Cape York Peninsula Aboriginal land); or
 - (c) for land in a national park, or part of a national park, that is an indigenous joint management area—a service facility in existence on the land immediately before the land was declared as an indigenous joint management area.

prescribed protected area means a national park or a regional park.

regional park means an area dedicated under this Act as a regional park.

regional park (general) means a regional park, or part of a regional park, that is not a regional park (resource use area).

regional park (resource use area) means a regional park, or part of a regional park, declared under this Act as a resource use area.

special management area means a special management area (controlled action) or a special management area (scientific).

special management area (controlled action) means an area declared under this Act as a special management area (controlled action).

special management area (scientific) means an area declared under this Act as a special management area (scientific).

[s 155]

Division 9 Amendment of Petroleum Act 1923

Clause 155 Act amended

This division amends the *Petroleum Act 1923*.

Note—

See also the amendments in—

- part 4, division 3
- schedule 1, parts 2 and 3.

Clause 156 Amendment of s 2 (Definitions)

Section 2, definition *owner*, paragraph 1(q)(iii) to (vi)—
omit, insert—

- (iii) a national park (Torres Strait Islander land);
- (iv) a forest reserve.

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

Clause 157 Act amended

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

Note—

See also the amendments in—

- part 4, division 4
- schedule 1, parts 2 and 3.

Clause 158 Amendment of sch 2 (Dictionary)

Schedule 2, definition *owner*, paragraph 1(q)(iii) to (vi)—

omit, insert—

(iii) a national park (Torres Strait Islander land);

(iv) a forest reserve.

Division 11 Amendment of Survey and Mapping Infrastructure Act 2003

Clause 159 Act amended

This division amends the *Survey and Mapping Infrastructure Act 2003*.

Note—

See also the amendments in schedule 1, part 3.

Clause 160 Amendment of s 66 (Non-application of sdivs 2 to 4 to particular land)

Section 66(6), definition *protected area—*

omit, insert—

protected area, under the *Nature Conservation Act 1992*, does not include a coordinated conservation area under that Act.

Clause 161 Amendment of s 95 (Non-application of sdivs 2 to 4 to particular land)

Section 95(5), definition *protected area—*

omit, insert—

protected area, under the *Nature Conservation Act 1992*, does not include a coordinated conservation area under that Act.

[s 162]

Division 12 Amendment of Vegetation Management Act 1999

Clause 162 Act amended

This division amends the *Vegetation Management Act 1999*.

Note—

See also the amendments in schedule 1, part 3.

Clause 163 Amendment of s 7 (Application of Act)

Section 7(1)(b)(i) to (viii)—

omit, insert—

- (i) a national park;
- (ii) a national park (Aboriginal land);
- (iii) a national park (Torres Strait Islander land);
- (iv) a national park (Cape York Peninsula Aboriginal land);
- (v) a regional park; or

Part 4 Amendments about forest reserves commencing by proclamation

Division 1 Amendment of Forestry Act 1959

Clause 164 Act amended

This division amends the *Forestry Act 1959*.

Note—

See also the amendments in—

- part 2, division 3
- part 3, division 1
- schedule 1, part 2.

Clause 165 Amendment of s 25 (Power to set apart and declare State forests)

(1) Section 25(c)—

omit.

(2) Section 25, editor's note—

omit.

Division 2 Amendment of Nature Conservation Act 1992

Clause 166 Act amended

This division amends the *Nature Conservation Act 1992*.

See also the amendments in—

- part 2, division 5
- part 3, division 8
- schedule 1, parts 1 and 3.

Clause 167 Omission of pt 4A (Forest reserves)

Part 4A—

omit.

Clause 168 Insertion of s 183A

Part 12, division 2—

[s 169]

insert—

183A Application of div 2

- (1) This section applies from the commencement of the *Nature Conservation and Other Legislation Amendment Act (No. 2) 2013*, part 4, division 2.
- (2) In this division, a reference to a forest reserve, or land in a forest reserve, is a reference to land that was in a forest reserve under this Act immediately before the commencement.

Division 3 Amendment of Petroleum Act 1923

Clause 169 Act amended

This division amends the *Petroleum Act 1923*.

Note—

See also the amendments in—

- part 3, division 9
- schedule 1, parts 2 and 3.

Clause 170 Replacement of s 4 (Relationship with Nature Conservation Act 1992)

Section 4—

omit, insert—

4 Relationship with Nature Conservation Act 1992

This Act is subject to the *Nature Conservation Act 1992*, section 27.

Editor's note—

Nature Conservation Act 1992, section 27 (Prohibition on mining, geothermal activities and GHG storage activities)

Division 4 Amendment of Petroleum and Gas (Production and Safety) Act 2004

Clause 171 Act amended

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

Note—

See also the amendments in—

- part 3, division 10
- schedule 1, parts 2 and 3.

Clause 172 Replacement of s 6A (Relationship with Nature Conservation Act 1992)

Section 6A—

omit, insert—

6A Relationship with Nature Conservation Act 1992

This Act is subject to the *Nature Conservation Act 1992*, section 27.

Editor's note—

Nature Conservation Act 1992, section 27 (Prohibition on mining, geothermal activities and GHG storage activities)

Division 5 Amendment of Sustainable Planning Act 2009

Clause 173 Act amended

This division amends the *Sustainable Planning Act 2009*.

website

2 Section 26(2)(b)(i)(B), ‘web site on the Internet’—

omit, insert—

website

3 Section 31(2)(b)(ii) and editor’s note, ‘web site on the Internet’—

omit, insert—

website

4 Section 32(a), ‘public notice given’—

omit, insert—

notice published

5 Section 36(2)(b)(i)(B), ‘web site on the Internet’—

omit, insert—

website

6 Section 37(a), ‘public notice given’—

omit, insert—

notice published

7 Section 141(2)(b)(ii), ‘web site on the Internet’—

omit, insert—

website

8 Section 143(1)(b) and editor’s note, ‘web site on the Internet’—

omit, insert—

website

Nature Conservation Act 1992

1 Section 42AD(2)(a), before ‘management plan’—
insert—

any

2 Section 42AN(2)(a), before ‘management plan’—
insert—

any

3 Section 50, ‘protected area’—
omit, insert—

nature refuge or coordinated conservation area

4 Section 62(5)(b), ‘threatened, rare’—
omit, insert—

threatened

5 Section 69(b), ‘the management’—
omit, insert—

a management

6 Section 70G(4)—
insert—

Note—

See, however, the *Forestry Act 1959*, section 25A.

Schedule 1

- 7 Section 71(a)(iv)—**
omit.
- 8 Section 71(a)(v) and (vi)—**
renumber as section 71(a)(iv) and (v).
- 9 Section 88(6), definition *class 1 offence*, paragraph (c)—**
omit.
- 10 Section 88(6), definition *class 1 offence*, paragraph (d)—**
renumber as paragraph (c).
- 11 Section 88(6), definition *class 2 offence*, paragraph (b)—**
omit.
- 12 Section 88(6), definition *class 2 offence*, paragraph (c)—**
renumber as paragraph (b).
- 13 Section 88(6), definition *class 3 offence*, paragraph (b)—**
omit.
- 14 Section 88(6), definition *class 3 offence*, paragraph (c)—**
renumber as paragraph (b).
- 15 Section 102(a), ‘threatened, rare’—**
omit, insert—
threatened
- 16 Section 132A(2)(b), ‘the management’—**
omit, insert—

any management

- 17 Section 173Q, heading and subsection (1)(a), ‘32, 56’—**
omit, insert—
32
- 18 Section 173Q(4), definition *relevant area*, ‘area, World Heritage management’—**
omit.
- 19 Section 174(1), fourth dot point—**
omit.
- 20 Schedule, definition *Aboriginal land*, ‘section 10.’—**
omit, insert—
section 8.
- 21 Schedule, definition *landholder*, paragraph (c), ‘under section 45’—**
omit.
- 22 Schedule, definition *protected animal*, ‘rare,’—**
omit.
- 23 Schedule, definition *rare wildlife*—**
omit.

- 2 Section 38(2)(k)(iv), ‘conservation park’—**
omit, insert—
regional park (general)
- 3 Section 579(6), definition *owner*, paragraph (d), ‘conservation park or resources reserve’—**
omit, insert—
regional park
- 4 Section 579(6), definition *owner*, paragraph (d)(i), ‘or reserve’—**
omit.
- 5 Section 579(6), definition *owner*, paragraph (e)(iii), ‘national park (scientific), national park (Torres Strait Islander land), national park (recovery)’—**
omit, insert—
national park (Torres Strait Islander land)

Forestry Act 1959

- 1 Schedule 3, definition *Crown land*, paragraph (d), ‘protected area, national park (recovery)’—**
omit, insert—
protected area

Land Act 1994

- 1 **Section 28(4), definition *action*, paragraph (d), ‘conservation park’—**

omit, insert—

regional park (general)

- 2 **Schedule 6, definition *unallocated State land*, paragraph (b), ‘conservation park’—**

omit, insert—

regional park (general)

Land Protection (Pest and Stock Route Management) Act 2002

- 1 **Schedule 3, definition *owner*, paragraph (a)(viii), ‘conservation park’—**

omit, insert—

regional park (general)

Liquor Act 1992

- 1 **Section 173B(1)(a)(ii), ‘conservation park or resources reserve’—**

omit, insert—

regional park

Mineral Resources Act 1989

- 1 **Schedule 2, definition *owner*, paragraph (a)(ii), ‘resources reserve’—**

omit, insert—

regional park (resource use area)

- 2 **Schedule 2, definition *reserve*, paragraph (a)(iii), ‘resources reserve’—**

omit, insert—

regional park (resource use area)

Petroleum Act 1923

- 1 **Section 2, definition *owner*, paragraph 1(h), ‘conservation park or resources reserve’—**

omit, insert—

regional park

- 2 **Section 2, definition *owner*, paragraph 1(h)(A), ‘or reserve’—**

omit.

Petroleum and Gas (Production and Safety) Act 2004

- 1 **Schedule 2, definition *owner*, paragraph 1(h), ‘conservation park or resources reserve’—**

omit, insert—

Geothermal Energy Act 2010

1 Section 7, ‘sections 27 and 70QA’—

omit, insert—

section 27

2 Section 7, editor’s note, from ‘sections 27’—

omit, insert—

section 27 (Prohibition on mining, geothermal activities and GHG storage activities)

3 Schedule 2, definition *owner*, paragraph 1(q)(iv)—

omit.

Greenhouse Gas Storage Act 2009

1 Section 7, ‘sections 27 and 70QA’—

omit, insert—

section 27

2 Section 7, editor’s note, from ‘sections 27’—

omit, insert—

section 27 (Prohibition on mining, geothermal activities and GHG storage activities)

3 Schedule 2, definition *owner*, paragraph 1(q)(iv)—

omit.

Land Act 1994

1 Section 481B(4)(c), ‘forest reserve,’—

omit.

2 Section 481H(d)(i), ‘forest reserve,’—

omit.

3 Schedule 6, definition *designated occupation licence*—

omit, insert—

designated occupation licence means an occupation licence over—

- (a) a national park; or
- (b) a State forest; or
- (c) a timber reserve.

4 Schedule 6, definition *forest reserve*—

omit.

5 Schedule 6, definition *nature conservation area*, paragraph (c)—

omit.

6 Schedule 6, definition *rural leasehold land*, paragraph (vi)—

omit.

Nature Conservation Act 1992

1 Section 61(2), after ‘forest reserve’—

insert—

under this Act

2 Section 173P(1)(b), ‘or forest reserve’—

omit.

3 Section 173Q, heading and subsection (1)(a), ‘, 32 or 70E’—

omit, insert—

or 32

4 Section 173Q(4), definition *relevant area*—

omit, insert—

relevant area means the State forest, timber reserve or protected area the subject of the motion.

5 Section 174(1), fourth dot point—

omit.

6 Section 174A(1)(b)—

omit.

7 Section 174A(1)(c)—

renumber as section 174A(1)(b).

Schedule 1

8 Schedule, definitions *forest reserve* and *SEQ horse riding trail network*—

omit.

9 Schedule, definition *State land*, paragraph (c), from ‘*Land Act 1994*’—

omit, insert—

Land Act 1994; or

Petroleum Act 1923

1 Section 2, definition *owner*, paragraph 1(q)(iv)—

omit.

Petroleum and Gas (Production and Safety) Act 2004

1 Schedule 2, definition *owner*, paragraph 1(q)(iv)—

omit.

Recreation Areas Management Act 2006

1 Section 53(3)(d)(ii), ‘*forest reserve or*’—

omit.

Survey and Mapping Infrastructure Act 2003

- 1 Section 66(1)(d) and (5), ‘forest reserve or’—**
omit.
- 2 Section 66(4)—**
omit.
- 3 Section 95(1)(b), ‘forest reserve or’—**
omit.
- 4 Section 95(3)—**
omit.

Vegetation Management Act 1999

- 1 Section 7(1)(a)—**
omit.
- 2 Section 7(1)(b) to (d)—**
renumber as section 7(1)(a) to (c).