

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, March 2019*



Queensland

**No.
A BILL for**

An Act to amend the Biodiscovery Act 2004, the Environmental Offsets Act 2014, the Environmental Protection Act 1994, the Forestry Act 1959, the Fossicking Act 1994, the Land Act 1994, the Land Title Act 1994, the Mineral Resources Act 1989, the Mineral Resources Regulation 2013, the Nature Conservation Act 1992 and the Vegetation Management Act 1999 for particular purposes



Queensland

Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Bill 2019

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2019

A Bill

for

An Act to amend the *Biodiscovery Act 2004*, the *Environmental Offsets Act 2014*, the *Environmental Protection Act 1994*, the *Forestry Act 1959*, the *Fossicking Act 1994*, the *Land Act 1994*, the *Land Title Act 1994*, the *Mineral Resources Act 1989*, the *Mineral Resources Regulation 2013*, the *Nature Conservation Act 1992* and the *Vegetation Management Act 1999* for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Act 2019*.

Part 2 Amendment of Nature Conservation Act 1992

2 Act amended

This part amends the *Nature Conservation Act 1992*.

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

Section 5(c), first dot point—

insert—

(iv) conservation agreements; and

(v) management programs;

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

(1) Section 14(h) and (i)—

renumber as section 14(i) and (j).

(2) Section 14—

insert—

(h) special wildlife reserves; and

5 Amendment of s 15 (Management of protected areas)

(1) Section 15(1)(b)(iii) and (iv)—

renumber as section 15(1)(b)(iv) and (v).

(2) Section 15(1)(b)—

insert—

(iii) a special wildlife reserve—the conservation agreement and management program for the area; or

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

Section 17(4), definition *ecotourism*—

omit.

7 Insertion of new s 21B

Part 4, division 1—

insert—

21B Management principles of special wildlife reserves

(1) A special wildlife reserve is to be managed to—

(a) permanently protect the area's exceptional natural and cultural resources and values; and

(b) protect the area's exceptional scientific values; and

(c) present the area's cultural and natural resources and values; and

(d) ensure the only use of the area is nature-based and ecologically sustainable.

- (2) Also, a special wildlife reserve is to be managed to do any of the following stated in the conservation agreement for the reserve—
- (a) allow controlled scientific study and monitoring of the area’s natural resources;
 - (b) provide opportunities for educational and recreational activities in a way consistent with the area’s natural and cultural resources and values;
 - (c) provide opportunities for ecotourism in a way consistent with the area’s natural and cultural resources and values;
 - (d) provide for the manipulation of the area’s natural and cultural resources to protect or restore the area’s natural or cultural values;
 - (e) provide for the manipulation of threatened wildlife’s habitat and the control of threatening processes relating to threatened wildlife, including threatening processes caused by other wildlife.

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

- (1) Section 27(1)—

insert—

- (g) a special wildlife reserve.

- (2) Section 27(2)(b), ‘or 42AE’—

omit, insert—

, 42AE, 43F or 43G

- (3) Section 27—

insert—

- (2A) Subsection (1) applies in relation to land in a protected area even if the land is also subject to a

tenure on which a mining interest, geothermal tenure or GHG authority could otherwise be granted.

Example of land in a protected area—

land in a special wildlife reserve that is subject to a lease under the *Land Act 1994*

- (4) Section 27(2A) and (3)—

renumber as section 27(3) and (4).

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

Part 4, division 2, subdivision 4, heading—

relocate and *renumber* as part 4, division 4A heading.

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

- (1) Section 39A, heading, ‘sdiv 4’—

omit, insert—

division

- (2) Section 39A(1)—

omit, insert—

- (1) This division applies if a person seeks, under section 34, 35, 38, 43F or 43G(1), an interest in relation to land in a protected area.

- (3) Section 39A(2), ‘subdivision’—

omit, insert—

division

11 Relocation and renumbering of ss 39A–39C

Sections 39A to 39C—

relocate and *renumber* in part 4, division 4A, as inserted by this Act, as sections 53 to 55.

12 Insertion of new pt 4, div 3B

Part 4—

insert—

Division 3B Special wildlife reserves

43 Application of division

- (1) This division applies to the following land—
 - (a) freehold land;
 - (b) Aboriginal land and Torres Strait Islander land;
 - (c) land subject to a lease under the *Land Act 1994*;
 - (d) land that is a reserve under the *Land Act 1994*.
- (2) However, this division does not apply to transferable land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*.
- (3) If a relevant provision is inconsistent with a provision of another Act applying to land to which this division applies, the relevant provision prevails to the extent of the inconsistency.
- (4) In this section—

relevant provision means—

 - (a) a provision of this division; and
 - (b) another provision of this Act applying to land to which this division applies because the land is in a special wildlife reserve.

43A Proposal for declaration of special wildlife reserve

- (1) This section applies if, after considering the following matters in relation to an area of land, the Minister is satisfied the area should be declared as a special wildlife reserve—
 - (a) the State interest;
 - (b) the area's exceptional natural and cultural resources and values.
- (2) The Minister must prepare a proposal for the declaration.
- (3) The proposal must describe the area (the ***proposed reserve area***) to be included in the special wildlife reserve.
- (4) The description of the proposed reserve area must include the following details—
 - (a) the geographical area of the proposed reserve area;
 - (b) the proposed reserve area's exceptional natural and cultural resources and values.
- (5) The Minister must give written notice about the proposal to—
 - (a) each person who has an interest in land in the proposed reserve area; and
 - (b) each holder of an exploration permit under the *Mineral Resources Act 1989* for land in the proposed reserve area; and
 - (c) each holder of an authority to prospect under the *Petroleum Act 1923* or the *Petroleum and Gas (Production and Safety) Act 2004* for land in the proposed reserve area; and

- (d) each holder of a mining interest, geothermal tenure or GHG authority to which land in the proposed reserve area is subject.
- (6) The notice must state a day by which the person may make submissions to the Minister about the proposal.
- (7) If the Minister considers it is impracticable to give written notice under subsection (5) to persons of a particular class, the Minister may give the notice by taking reasonable steps to ensure the class is made aware of the proposal.

Examples of taking reasonable steps—

- advertising in newspapers or other publications
- publishing a notice on the department's website

- (8) In this section—

State interest means an interest the Minister considers to be an economic, environmental or community interest of the State.

43B Making conservation agreement for special wildlife reserve

- (1) The Minister must, for the State, enter into a conservation agreement for a proposed special wildlife reserve if—
- (a) the Minister and the landholder of land in the proposed reserve area for the special wildlife reserve agree—
- (i) the land should be a special wildlife reserve; and
- (ii) on the terms of the agreement for the reserve; and
- (b) there is an approved management program for the reserve.
- (2) However, if the rights or interests of a person

mentioned in section 43A(5) will be materially affected by the conservation agreement, the Minister must not enter into the agreement without the person's written consent.

- (3) Also, the Minister may enter into a conservation agreement for a proposed special wildlife reserve in the Cape York Peninsula Region only if—
- (a) native title for the area has been extinguished; or
 - (b) for an area for which native title has not been extinguished—
 - (i) there is an indigenous land use agreement for the area; and
 - (ii) the dedication of a special wildlife reserve over the area is allowed under the indigenous land use agreement; and
 - (iii) the conservation agreement is consistent with the indigenous land use agreement.

- (4) In this section—

approved management program, for a special wildlife reserve, means a management program for the reserve approved by the Minister under section 120EC.

43C Terms of conservation agreement for special wildlife reserve

- (1) A conservation agreement must—
- (a) be consistent with the management principles for a special wildlife reserve; and
 - (b) state it is binding on the landholder of the land and the landholder's successors in title; and

- (c) contain details of the management program for the special wildlife reserve; and
 - (d) contain terms prohibiting the following—
 - (i) the granting of a mining interest, geothermal tenure or GHG authority in relation to the land that can not be granted in relation to a special wildlife reserve under section 27;
 - (ii) the carrying out of an activity under the *Forestry Act 1959* on the land that is prohibited from being carried out on a special wildlife reserve under that Act;
 - (iii) the granting of a licence or permit under the *Fossicking Act 1994* in relation to the land.
- (2) A conservation agreement may contain terms—
- (a) requiring the State to provide financial or other assistance; or
 - (b) requiring the State to provide technical advice; or
 - (c) requiring the State to carry out stated activities; or
 - (d) allowing a landholder to carry out stated activities; or
 - (e) prohibiting a stated use of land in the special wildlife reserve; or
 - (f) restricting the use or management of land in the special wildlife reserve; or
 - (g) requiring a landholder to refrain from, or not to permit, stated activities; or
 - (h) requiring a landholder to carry out stated activities; or

- (i) requiring a landholder to permit or restrict access to the special wildlife reserve by stated persons; or
- (j) stating the way in which amounts provided to a landholder under the agreement are to be applied by the landholder; or
- (k) requiring a landholder to repay amounts paid under the agreement if the landholder contravenes the agreement or the agreement ends; or
- (l) providing for any other matter relating to the conservation of nature in the special wildlife reserve, including the implementation of the management program for the reserve.

43D Declaration of special wildlife reserve

A regulation may declare an area of land the subject of a conservation agreement as a special wildlife reserve.

43E Agreeing to amend conservation agreement

- (1) The Minister and landholders bound by a conservation agreement for a special wildlife reserve may agree to amend the agreement.
- (2) However, the amendment must not adversely affect the conservation of nature in the special wildlife reserve.
- (3) If the amendment materially affects the rights or interests of a person mentioned in section 43A(5), the amendment may be made only with the written consent of the person.
- (4) If a regulation under section 43J is required because of the amendment, the amendment does not take effect until the regulation commences.

(5) Subsection (1) is subject to section 43C(1).

43F Leases etc. over land in special wildlife reserve

- (1) A lease, agreement, licence, permit or other authority over, or in relation to, land in a special wildlife reserve (other than an agreement or a licence, permit or other authority issued or given under a regulation) may be granted, made, issued or given only—
 - (a) by the chief executive under this Act with the consent of the landholder of the land; or
 - (b) under another Act by—
 - (i) the Governor in Council; or
 - (ii) someone else with the consent of the Minister or chief executive; or
 - (c) if the landholder of the land gives a lease or sublease of the land to another person—by the landholder with the consent of the chief executive.
- (2) A lease, agreement, licence, permit or other authority mentioned in subsection (1) must be consistent with the management principles and the conservation agreement for the special wildlife reserve.
- (3) As soon as practicable after a lease is granted or given under subsection (1), the person who granted or gave the lease must lodge the lease for registration with—
 - (a) if the lease is over freehold land—the registrar of titles; or
 - (b) otherwise—the chief executive (lands).

43G Service facilities over land in special wildlife reserve

- (1) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a special wildlife reserve if—
 - (a) the use under the authority is only for a new service facility; and
 - (b) the landholder of the land consents to the use; and
 - (c) the chief executive is satisfied—
 - (i) the management principles and the conservation agreement for the special wildlife reserve will be observed to the greatest possible extent; and
 - (ii) the use will be in the public interest; and
 - (iii) the use is ecologically sustainable; and
 - (iv) there is no reasonably practicable alternative to the use; and
 - (d) the use is prescribed by regulation to be a permitted use for the special wildlife reserve.
- (2) The chief executive may grant, make, issue or give a lease, agreement, licence, permit or other authority over, or in relation to, land in a special wildlife reserve if—
 - (a) the use under the authority is only for an existing service facility; and
 - (b) the chief executive is satisfied the use—
 - (i) is ecologically sustainable; and

- (ii) does not include carrying out substantial improvements to the existing service facility.

Examples of a substantial improvement to an existing service facility—

- an upgrade of a road that provides access to a communications tower
 - the replacement of a pipeline with a larger pipeline
- (3) Subsection (1) has effect despite sections 15 and 43F(2).
- (4) Subsection (2) has effect despite sections 15, 43F(1)(a) and 43F(2).
- (5) In this section—
- new service facility*** means a service facility, other than an existing service facility.

43H Previous use authorities in special wildlife reserve

- (1) This section applies if—
- (a) land is declared as a special wildlife reserve; and
 - (b) immediately before the declaration, the land was being used (the ***previous use***) by a person other than the landholder of the land in a way that is inconsistent with the management principles and conservation agreement for the special wildlife reserve.
- (2) The chief executive may grant an authority (a ***previous use authority***) to the person over, or in relation to, the land to allow the previous use to continue for no longer than the allowable term.
- (3) A previous use authority must not be renewed.
- (4) This section—

- (a) applies despite sections 15, 43F(1)(a) and 43F(2); and
 - (b) does not limit section 43G(2).
- (5) In this section—

allowable term, in relation to previous use on a special wildlife reserve, means—

- (a) if the previous use was under an authority—
the unexpired term of the authority; or
- (b) otherwise—3 years after the declaration of the reserve.

authority means an agreement, lease, licence, permit or other authority.

43I Amalgamation of special wildlife reserves

A regulation may—

- (a) amalgamate the areas of 2 or more special wildlife reserves; and
- (b) assign a name to the amalgamated area.

43J Revocation of special wildlife reserves

- (1) A regulation may revoke the declaration of all or part of a special wildlife reserve.
- (2) The regulation may be made only if the Legislative Assembly has, on a motion of which at least 28 days notice has been given, passed a resolution requesting the Governor in Council to make the revocation.
- (3) Subsection (2) does not apply if the regulation—
 - (a) makes a minor change to the boundaries of a special wildlife reserve and the Minister is satisfied the change does not adversely affect the conservation of nature; or

Example for paragraph (a)—

changing the boundaries of a special wildlife reserve to align with a new survey of an existing road

- (b) increases the area of land in a special wildlife reserve and the Minister is satisfied the increase does not adversely affect the conservation of nature; or
 - (c) dedicates the land subject of the revocation as a national park (scientific) or a national park.
- (4) If the regulation revokes the declaration of all of a special wildlife reserve, the conservation agreement and management program for the reserve end on the revocation.
- (5) If the regulation revokes the declaration of part of a special wildlife reserve, on the revocation, the conservation agreement and management program for the reserve stop having effect in relation to the land removed from the reserve.

43K Conservation agreements for special wildlife reserves binding

- (1) A conservation agreement for a special wildlife reserve is binding on—
- (a) the landholder of the land in the reserve; and
 - (b) the landholder's successors in title; and
 - (c) any other person with an interest in land in the reserve who consented to the agreement.
- (2) Subsection (1) applies even if—
- (a) there is a lease or reserve under the *Land Act 1994* over the land in the special wildlife reserve; and
 - (b) under the *Land Act 1994*—

- (i) the lease is renewed or extended; or
- (ii) the lease is converted to freehold land or a different type of lease; or
- (iii) the reserve is converted to freehold land or a different type of reserve.

43L Consent for transfer or surrender of land or expiry of lease

- (1) This section applies if—
 - (a) a special wildlife reserve is declared over freehold land or land in a lease under the *Land Act 1994*; and
 - (b) a person intends, under the *Land Act 1994*, to do any of the following—
 - (i) surrender all or part of the freehold land or lease;
 - (ii) allow the lease to expire at the end of its term;
 - (iii) transfer the lease.
- (2) The person must obtain the chief executive's written consent—
 - (a) for the surrender or transfer before seeking approval from the Minister administering the *Land Act 1994* to surrender the freehold land or lease, or transfer the lease; or
 - (b) for the expiry before giving an expiry advice under the *Land Act 1994* to the chief executive (lands).

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

Section 50A—

omit.

14 Replacement of s 51 (Conservation agreements and covenants binding)

Section 51—

omit, insert—

51 Conservation agreements and conservation covenants for nature refuges binding

- (1) A conservation agreement in relation to the land in a nature refuge is binding on—
 - (a) the landholder of the land; and
 - (b) the landholder's successors in title; and
 - (c) any other person with an interest in land in the nature refuge to the extent the agreement contains terms to that effect.
- (2) A conservation covenant in relation to the land in a nature refuge is binding on persons with an interest in the land to the extent stated in the covenant.
- (3) Subsection (1) applies even if—
 - (a) there is a lease or reserve under the *Land Act 1994* over the land in the nature refuge; and
 - (b) under the *Land Act 1994*—
 - (i) the lease is renewed or extended; or
 - (ii) the lease is converted to freehold land or a different type of lease; or
 - (iii) the reserve is converted to freehold land or a different type of reserve.

15 Omission of s 52 (Liability of State)

Section 52—

omit.

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

(1) Section 62(1)(b), ‘or covenant’—

omit, insert—

, conservation covenant or management program

(2) Section 62(1)(c)(i), ‘sections 34 to 38’—

omit, insert—

a prescribed provision

(3) Section 62(7)—

insert—

prescribed provision means section 34, 35, 35A, 36, 37, 38, 42AD, 42AE, 42AEA, 42AN, 42AO, 42AOA, 42AP, 43F or 43H.

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

Section 65(2)(a), ‘and 33’—

omit, insert—

, 33 and 43J

18 Insertion of new s 68A

Part 4, division 6—

insert—

68A Liability of State

(1) The State is not legally liable for an act or omission on, or in relation to, private land merely because—

- (a) a conservation agreement has been entered into for the land; or
 - (b) the land has been declared as, or as part of, a special wildlife reserve, nature refuge or coordinated conservation area.
- (2) In this section—
private land means land other than State land.

19 Amendment of s 69 (Preservation of landholders' interests)

Section 69(2)—

omit, insert—

- (2) Subsection (1) does not apply to the extent—
- (a) the landholder is bound by a conservation agreement or conservation covenant in relation to the land; or
 - (b) of a regulation giving effect to a management plan for the protected area.
- (3) Subsection (1) is subject to section 43L.

20 Amendment of s 70AA (Regulations may define extent of area)

- (1) Section 70AA(1), from 'section 29(1)'—

omit, insert—

a prescribed provision.

- (2) Section 70AA—

insert—

- (3) In this section—

prescribed provision means section 29(1), 41(5), 42(5), 42AB(2), 42AC(2), 42AI(2), 42AJ(2), 43D or 46(1).

21 Amendment of pt 7, hdg (Management statements, management plans and conservation plans)

Part 7, heading, after ‘management plans’—

insert—

, management programs

22 Omission of pt 7, div 1 (Preliminary)

Part 7, division 1—

omit.

23 Amendment of s 114, hdg (Application of div 4)

Section 114, heading, ‘div 4’—

omit, insert—

division

24 Amendment of s 115A (Notice of draft plan)

Section 115A—

insert—

(6) In this section—

landholder includes a person having an interest in land.

25 Insertion of new pt 7, div 6A

Part 7—

insert—

Division 6A Management programs

120EA Preparation of management program

A landholder who intends to enter into a conservation agreement for a special wildlife reserve must prepare and give the Minister a management program for the reserve.

120EB Content of management program

- (1) A management program must state management outcomes for the protection, presentation and use of the special wildlife reserve and actions to achieve the outcomes.
- (2) A management program may also—
 - (a) divide the area of the special wildlife reserve into management zones; and
 - (b) authorise or restrict the taking, using or keeping of, or interfering with, a cultural or natural resource of the reserve.

120EC Approval of management program

The Minister may approve a management program for a special wildlife reserve only if the Minister is satisfied—

- (a) the program is consistent with the management principles and proposed conservation agreement for the reserve; and
- (b) the program states appropriate management outcomes for the protection, presentation and use of the reserve and appropriate actions to achieve the outcomes; and
- (c) if the program authorises or restricts the taking, using or keeping of, or interfering with, a cultural or natural resource—that the authorisation or restriction is ecologically sustainable.

120ED When management program has effect

A management program for a special wildlife reserve has effect when the reserve is declared under this Act.

120EE Implementation of management program

The landholder of land in a special wildlife reserve must give effect to the management program for the reserve.

120EF Amendment of management program

- (1) The landholder of land in a special wildlife reserve may, at any time, prepare an amended management program for the reserve for approval by the chief executive.
- (2) Section 120EC applies to the amended management program as if—
 - (a) a reference to the Minister were a reference to the chief executive; and
 - (b) a reference to a management program were a reference to the amended management program.
- (3) An amended management program for a special wildlife reserve has effect when it is approved by the chief executive.

26 Renumbering of pt 7, divs 2–6A

Part 7, divisions 2 to 6A—

renumber as part 7, divisions 1 to 6.

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

Part 7, division 7, heading, ‘and management plans’—

omit, insert—

, management plans and management programs

28 Insertion of new s 120GA

Part 7, division 7—

insert—

120GA Review of management program

- (1) The chief executive and the landholder of land in a special wildlife reserve must jointly review the management program for the reserve—
 - (a) no later than 5 years after the program first takes effect (the *first review*); and
 - (b) subsequently, at intervals of not more than 5 years after the first review.
- (2) Subsection (1) applies even if the management program has been amended in the period before the review is required.
- (3) On completing a review under subsection (1), the chief executive and landholder may agree—
 - (a) that the landholder will prepare an amended management program under section 120EF; or
 - (b) to leave the management program unchanged.

28A Amendment of s 132A (Committees for protected areas in Cape York Peninsula Region)

Section 132A(5)—

omit.

29 Replacement of s 134 (Records to be maintained by registrar)

Section 134—

omit, insert—

134 Records to be kept by registrar

- (1) Subsections (2) to (4) apply in relation to the following instruments—
 - (a) a conservation agreement, including an amended conservation agreement;
 - (b) a regulation or conservation plan identifying an area as, or including—
 - (i) a critical habitat; or
 - (ii) an area of major interest;
 - (c) a regulation declaring a protected area.
- (2) The chief executive must, within 14 days after the instrument is made, give the registrar a compliant document for the instrument.
- (3) The registrar must record the information in the compliant document about the instrument, and the land to which it relates, in the appropriate register for the land in a way that a search of the register will show the existence of the instrument in relation to the land.
- (4) The record must also state where the instrument may be inspected.
- (5) Subsections (6) and (7) apply in relation to the following actions—
 - (a) the ending of a conservation agreement;

- (b) the removal of an area as, or including, a critical habitat or an area of major interest from a regulation or conservation plan;
 - (c) the revocation of a protected area, in whole or part.
- (6) The chief executive must, within 14 days after the action happens, give the registrar a compliant document for the action.
- (7) The registrar must record the happening of the action in the appropriate register for the land.
- (8) In this section—
- appropriate register* means—
- (a) for freehold land—the freehold land register; or
 - (b) for other land—the appropriate register under the *Land Act 1994*.

compliant document, for an instrument or action, means a document stating the information about the instrument or action, and the land to which it applies, required by the registrar for recording the information in the appropriate register for the land.

registrar means—

- (a) for an instrument or action relating to freehold land—the registrar of titles; or
- (b) for an instrument or action relating to other land—the chief executive (lands).

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

- (1) Section 137, heading, from ‘principles,’—

omit, insert—

principles, and management intent,

management plan or conservation agreement

(2) Section 137(1)(b)—

omit, insert—

(b) any of the following for the area—

- (i) the interim or declared management intent;
- (ii) a management plan;
- (iii) a conservation agreement.

31 Amendment of s 141 (Delegation by chief executive)

Section 141(3), definition *prescribed provision*, from
'42AO'—

omit, insert—

42AN, 42AO, 42AOA, 42AP, 42A, 43F, 43G,
43H or 136.

32 Amendment of s 154 (Other powers of conservation officers)

(1) Section 154(1)(a)(i), before 'protected'—

insert—

protected areas,

(2) Section 154(1)(a)—

insert—

- (iii) investigating or monitoring compliance with a conservation agreement for a protected area;

33 Amendment of s 174 (Application of Statutory Instruments Act)

Section 174(1)—

insert—

- section 43J(1)

34 Insertion of new s 174C

Part 11—

insert—

174C No fee for instrument, information or notice

- (1) This section applies if the chief executive is required, under this Act, to do any of the following—
 - (a) give an instrument to, or lodge an instrument with, the registrar of titles or the chief executive (lands);
 - (b) give information in relation to an instrument to the registrar of titles or the chief executive (lands);
 - (c) give notice, under section 134, about an action to the registrar of titles or the chief executive (lands).
- (2) No fee is payable by the chief executive under this Act in relation to the instrument, information or notice.

35 Amendment of s 175 (Regulation-making power)

Section 175(2)(h), ‘aircraft property’—

omit, insert—

aircraft, property

36 Amendment of schedule (Dictionary)

- (1) Schedule, definition *conservation agreement*—
omit.

(2) Schedule—

insert—

Cape York Peninsula Region means the Cape York Peninsula Region under the *Cape York Peninsula Heritage Act 2007*.

conservation agreement means—

- (a) for a special wildlife reserve—a conservation agreement entered into under section 43B or amended under section 43E; or
- (b) for a nature refuge—a conservation agreement entered into under section 45 or 48; or
- (c) for a coordinated conservation area—a conservation agreement entered into under—
 - (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.

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.

management program, for a special wildlife reserve, means a management program or amended management program approved under part 7, division 6.

proposed reserve area, for part 4, division 3B, see section 43A(3).

special wildlife reserve means an area declared under this Act as a special wildlife reserve.

(3) Schedule, definition *existing service facility*—

insert—

- (d) for land in a special wildlife reserve—a service facility in existence on the land immediately before the land was declared as a special wildlife reserve.

Part 3 **Amendment of Biodiscovery Act 2004**

37 Act amended

This part amends the *Biodiscovery Act 2004*.

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

(1) Section 24, heading, from ‘dedicated’—

omit, insert—

in new national park, special wildlife reserve or marine park

(2) Section 24(1)—

omit, insert—

(1) This section applies if—

- (a) land is dedicated as a national park or national park (scientific), or declared a special wildlife reserve, under the *Nature Conservation Act 1992*; and
- (b) immediately before the dedication or declaration, a person held a collection authority that is inconsistent with the management principles under the *Nature Conservation Act 1992* for the park or reserve.

Part 4 Amendment of Environmental Offsets Act 2014

39 Act amended

This part amends the *Environmental Offsets Act 2014*.

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

Section 7(3), before ‘nature refuge’—

insert—

special wildlife reserve or

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

(1) Section 18(1)—

omit, insert—

(1) This section applies if—

(a) under another Act, an offset condition has been, or may be, imposed on an authority; and

(b) the condition relates to the significant residual impact of a prescribed activity on a prescribed environmental matter.

(2) Section 18(2), after ‘administering agency’—

insert—

for the offset condition

42 Insertion of new pt 6, div 7

Part 6—

insert—

Division 7 Miscellaneous

25AA Planning chief executive may nominate person to perform functions

- (1) This section applies if, in relation to an application for a development approval under the Planning Act—
 - (a) the planning chief executive is the assessment manager or a referral agency for the application; and
 - (b) the planning chief executive has not nominated a person as an enforcement authority for the assessable development the subject of the application under that Act.
- (2) The planning chief executive may, by written notice given to a person, nominate the person to perform the planning chief executive's functions as an administering agency under this part for the development approval.

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

Section 29(2)(a), after '29(1)'—

insert—

, 43D

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

Section 86(3)(b), before 'nature refuge'—

insert—

special wildlife reserve or

45 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition *administering agency*—

omit.

(2) Schedule 2—

insert—

administering agency—

(a) means—

(i) in relation to an offset condition for a development approval for assessable development under the Planning Act—

(A) if, under that Act, a referral agency may direct, or has directed, the assessment manager for the application for the development approval to impose the offset condition—the referral agency; or

(B) if the planning chief executive has, under the Planning Act, schedule 2, definition *enforcement authority*, paragraph (a)(iii), nominated a person as an enforcement authority for the assessable development—the person; or

(C) otherwise—the assessment manager for the application for the development approval; or

(ii) in relation to an authority under any other Act—an entity that, under another Act, performs a function in relation to—

(A) the grant of an authority for a prescribed activity; or

(B) enforcing compliance with the conditions of an authority for a prescribed activity, or otherwise administering the authority; or

(iii) for part 7—an administering agency mentioned in section 26(1)(a) or (b); and

(b) includes, for part 6 in relation to a development approval, a person nominated by the planning chief executive under section 25AA(2) for the development approval.

planning chief executive means the chief executive of the department in which the Planning Act is administered.

special wildlife reserve see the *Nature Conservation Act 1992*, schedule.

- (3) Schedule 2, definition *impose*, paragraph (b), ‘tell’—
omit, insert—
direct

Part 5 Amendment of Environmental Protection Act 1994

46 Act amended

This part amends the *Environmental Protection Act 1994*.

47 Amendment of s 19 (Environmentally relevant activity may be prescribed)

- (1) Section 19(1)(a) and (b)—
omit, insert—
(a) that—

- (i) a contaminant will or may be released into the environment when the activity is carried out; and
 - (ii) the release of the contaminant will or may cause environmental harm; or
 - (b) the activity will or may otherwise adversely affect an environmental value of the marine environment.
- (2) Section 19—
insert—
- (1A) Without limiting subsection (1), a regulation under that subsection may prescribe an activity carried out in a relevant Great Barrier Reef Marine Park area as an environmentally relevant activity.
- (3) Section 19—
insert—
- (3) In this section—
Great Barrier Reef Marine Park means the Great Barrier Reef Marine Park under the *Great Barrier Reef Marine Park Act 1975* (Cwlth).
relevant Great Barrier Reef Marine Park area means an area—
 - (a) partly within the State and partly outside the State, but within the Great Barrier Reef Marine Park; or
 - (b) of which—
 - (i) part is within the State but not within the Great Barrier Reef Marine Park; and
 - (ii) part is outside the State but within the Great Barrier Reef Marine Park.

Part 6 **Amendment of Forestry Act 1959**

48 **Act amended**

This part amends the *Forestry Act 1959*.

49 **Amendment of sch 3 (Dictionary)**

Schedule 3, definition *protected area*—
insert—

(h) a special wildlife reserve.

Part 7 **Amendment of Fossicking Act 1994**

50 **Act amended**

This part amends the *Fossicking Act 1994*.

51 **Amendment of s 3 (Definitions)**

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

(vii) a special wildlife reserve; or

Part 8 **Amendment of Land Act 1994**

52 **Act amended**

This part amends the *Land Act 1994*.

53 Amendment of s 199 (Duty of care condition)

Section 199—

insert—

- (3) However, if the lease land is also a special wildlife reserve or nature refuge under the *Nature Conservation Act 1992*, the lessee's duty of care does not include, or no longer includes, the requirements mentioned in subsection (2)(e) and (f).

54 Amendment of s 199A (Land may be used only for tenure's purpose)

Section 199A(4)—

omit, insert—

- (4) Despite subsections (2) and (3), lease land may be used—
- (a) under an approved agreement for an indigenous cultural interest for the lease land; or
 - (b) for lease land that is also a special wildlife reserve or nature refuge under the *Nature Conservation Act 1992*—in a way permitted under that Act for the special wildlife reserve or nature refuge.

55 Amendment of s 279A (Registration of documents lodged or matters notified under particular Acts)

Section 279A—

insert—

- (3) If a conservation agreement is recorded in the land registry in relation to land, the agreement is taken to be—

- (a) for sections 162(5), 164F(2)(d), 172(5), 176G(2) and 176S(2)—a relevant registered interest; or
- (b) for sections 176(2)(c), 176K(3)(c), 240K(1), 240L(9), 325(1)(b), 327C(2) and 360D(2)—a registered interest.

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

Section 290J(1)(1)—

insert—

- (iv) if the land the subject of the plan of subdivision is the subject of a conservation agreement—the chief executive of the department in which the *Nature Conservation Act 1992* is administered; and

57 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definition *appropriate register*, paragraph (d), ‘specified protected areas’—

omit, insert—

protected areas, critical habitat, or areas of major interest, under the *Nature Conservation Act 1992*

- (2) Schedule 6, definition *nature conservation area*—

insert—

- (e) a special wildlife reserve.

Part 9 **Amendment of Land Title Act 1994**

58 **Act amended**

This part amends the *Land Title Act 1994*.

59 **Amendment of s 50 (Requirements for registration of plan of subdivision)**

Section 50(1)—

insert—

- (k) if the plan affects land subject of a conservation agreement under the *Nature Conservation Act 1992*—be consented to, in writing, by the chief executive of the department in which that Act is administered.

Part 10 **Amendment of Mineral Resources Act 1989**

60 **Act amended**

This part amends the *Mineral Resources Act 1989*.

60A **Amendment of ch 15, hdg (Transitional provisions)**

Chapter 15, heading, after ‘Transitional’—

insert—

, declaratory and validating

60B **Insertion of new ch 15, pt 16**

Chapter 15—

insert—

Part 16 Declaratory and validating provisions relating to regulations

865 Declaration about *Mineral Resources Regulation 2003*

- (1) The repealed *Mineral Resources Regulation 2003*, as in force from time to time before its repeal, is taken to have had effect for the declaration period as if it were amended as provided in this section.
- (2) Schedule 4, part 2, section 2, after ‘royalty rate for bauxite’—

insert—

sold, disposed of or used in a return period by the holder of the mining lease for the bauxite

- (3) Schedule 4, part 2, section 2(a), from ‘if it is sold’ to ‘for the bauxite’—

omit, insert—

if the bauxite is mined for consumption outside the State

- (4) Schedule 4, part 2, section 2(b), from ‘if it is sold’ to ‘for the bauxite’—

omit, insert—

if the bauxite is mined for consumption within the State

- (5) Schedule 4, part 2, section 2(b)(i), from ‘for a holder’ to ‘outside the State’—

omit, insert—

for a holder who has also sold, disposed of or

used bauxite in the return period that is mined for consumption outside the State

(6) In this section—

declaration period means the period from the commencement of the *Mines and Energy Legislation Amendment Regulation (No. 2) 2008* until the commencement of the *Mineral Resources Regulation 2013*.

866 Declaration about *Mineral Resources Regulation 2013*

(1) The *Mineral Resources Regulation 2013* is taken to have had effect for the declaration period as if it were amended as provided in this section.

(2) Schedule 3, section 4, after ‘royalty rate for bauxite’—

insert—

sold, disposed of or used in a return period by the holder

(3) Schedule 3, section 4(a), from ‘if it is sold’ to ‘for the bauxite’—

omit, insert—

if the bauxite is mined for consumption outside the State

(4) Schedule 3, section 4(b), from ‘if it is sold’ to ‘for the bauxite’—

omit, insert—

if the bauxite is mined for consumption within the State

(5) Schedule 3, section 4(b)(i), from ‘for a holder’ to ‘outside the State’—

omit, insert—

for a holder who has also sold, disposed of or used bauxite in the return period that is mined for consumption outside the State

(6) In this section—

declaration period means the period from the commencement of the *Mineral Resources Regulation 2013* until the commencement of the *Nature Conservation (Special Wildlife Reserves) and Other Legislation Amendment Act 2019*, part 10A.

867 Application of ss 865 and 866 for all purposes and validation of relevant acts

- (1) Sections 865 and 866 apply for all purposes, including for the purpose of any of the following that has been done, or is done, under this Act—
 - (a) making an assessment;
 - (b) lodging a royalty return;
 - (c) paying a royalty-related amount;
 - (d) making a requirement to make a payment, keep a record, give a royalty estimate or do anything else relating to a royalty.
- (2) A person's liability to pay a royalty-related amount and all other rights and liabilities are declared to be, and to have been since the commencement of the *Mines and Energy Legislation Amendment Regulation (No. 2) 2008*, for all purposes the same as if the regulations mentioned in sections 865 and 866 had been amended as provided in those sections.

868 Application to all legal proceedings

This part applies for the purpose of any legal proceeding, including a proceeding started before

the commencement of this part.

61 Amendment of sch 2 (Dictionary)

Schedule 2, definition *protected area*—

insert—

- (f) a special wildlife reserve.

Part 10A Amendment of Mineral Resources Regulation 2013

61A Regulation amended

This part amends the *Mineral Resources Regulation 2013*.

61B Amendment of sch 3 (Royalty payable for minerals)

- (1) Schedule 3, section 4, after ‘royalty rate for bauxite’—

insert—

sold, disposed of or used in a return period by the holder

- (2) Schedule 3, section 4(a), from ‘if’ to ‘for the bauxite’—

omit, insert—

if the bauxite is mined for consumption outside the State

- (3) Schedule 3, section 4(b), from ‘if’ to ‘for the bauxite’—

omit, insert—

if the bauxite is mined for consumption within the State

- (4) Schedule 3, section 4(b)(i), from ‘for a holder’ to ‘outside the State’—

omit, insert—

for a holder who has also sold, disposed of or used bauxite in the return period that is mined for consumption outside the State

Part 11 Amendment of Vegetation Management Act 1999

62 Act amended

This part amends the *Vegetation Management Act 1999*.

63 Amendment of s 7 (Application of Act)

Section 7(1)(b)—

insert—

(viii) a special wildlife reserve; or

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