



# **Forest Wind Farm Development Act 2020**

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Queensland

# Forest Wind Farm Development Act 2020

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# Forest Wind Farm Development Act 2020

**An Act to enable the establishment and operation of a wind farm in certain State forests**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Forest Wind Farm Development Act 2020*.

### **2 Commencement**

This Act, other than part 8, division 4, commences on a day to be fixed by proclamation.

### **3 Purpose of Act**

The purpose of this Act is to enable the establishment and operation of a particular wind farm development in the project area.

### **4 Act binds all persons**

This Act binds all persons, including the State.

### **5 Definitions**

The dictionary in schedule 2 defines particular words used in this Act.

## Part 2 Development agreements

### 6 Meaning of *development agreement*

A *development agreement* is an agreement relating to a stage of the project, as in force from time to time, that—

- (a) is entered into by the State with at least the following entities—
  - (i) an entity who is the proponent for the agreement;
  - (ii) each plantation licensee for a State plantation forest, or part of a State plantation forest, in the agreement area; and
- (b) includes—
  - (i) a declaration that the agreement is a development agreement for this Act; and
  - (ii) a description of the stage of the project the subject of the agreement; and
  - (iii) a description of the part of the project area to which the stage relates; and
- (c) includes provision about—
  - (i) the giving of an access licence in relation to the agreement, including the expiry day for the licence; and
  - (ii) the giving or renewal of a project lease in relation to the agreement, including the purpose of the lease; and
  - (iii) the payment of compensation, in relation to the carrying out of the agreement stage, by the proponent, or another specified entity other than the State, to each plantation licensee who is a party to the development agreement; and
  - (iv) the remediation of land in the agreement area, including the giving of a security to the State in relation to the remediation of the land; and



- (v) the assessment of the financial and managerial capabilities of the proponent, including before an access licence or project lease is given or transferred to the proponent.

## **7 Matters about development agreements that must be noted on plantation licences**

- (1) This section applies if—
  - (a) the agreement area for a development agreement includes land that, when the agreement is entered into, is in the licence area for a plantation licence; and
  - (b) the plantation licence is registered in the register of plantation licences under the *Forestry Act 1959*.
- (2) The Minister must, as soon as practicable after the development agreement is entered into, notify the registrar of titles of the agreement.
- (3) If the registrar of titles is notified under subsection (2), the registrar must note on the plantation licence that the development agreement has been entered into.
- (4) If the development agreement stops having effect—
  - (a) the Minister must notify the registrar of titles that the development agreement has stopped having effect; and
  - (b) the registrar must remove the note mentioned in subsection (3) from the plantation licence.

## Part 3 Access licences

### Division 1 Preliminary

#### 8 Authority given by access licences

- (1) An access licence given in relation to a development agreement authorises the holder of the licence or a person acting on behalf of the holder to do any of the following—
  - (a) to carry out a stated activity for the agreement stage on stated land that is in project area A and in the agreement area for the development agreement;
  - (b) to build, maintain or use a road or track on stated land that is in project area B and in the agreement area for the development agreement;
  - (c) to remediate the land mentioned in paragraph (a) or (b) in accordance with the access licence;
  - (d) to enter stated land in the agreement area for the development agreement for a purpose mentioned in paragraph (a), (b) or (c).
- (2) Without limiting subsection (1)(a), the stated activity for land that is in project area A and in the agreement area for a development agreement may involve—
  - (a) building, maintaining and using a bridge, road or track;  
or
  - (b) building, maintaining and operating equipment or a building, facility, structure or works.

#### 9 Conditions precedent for giving access licences

For this part, the *conditions precedent* for the giving of an access licence to the proponent for a development agreement are as follows—

- 
- (a) if native title exists in relation to a part of the agreement area for the development agreement—an ILUA in relation to the project must be in effect for the part of the agreement area and must—
    - (i) provide that the parties to the ILUA consent to the giving of the access licence; and
    - (ii) provide for the payment of compensation in relation to the effect of the giving of the access licence on native title rights and interests; and
    - (iii) provide that no compensation is payable by or on behalf of the State under the ILUA;
  - (b) if the development agreement provides that compensation must be paid by the proponent, or another specified entity, to a plantation licensee before the access licence is given—the compensation has been paid;
  - (c) if the development agreement provides that a security must be given to the State before the access licence is given—the security has been given;
  - (d) if, under the development agreement, a condition must be met before the access licence is given—the condition has been met.

## **Division 2                      Applications for access licences**

### **10            Making licence applications**

- (1) The proponent for a development agreement may apply (a *licence application*) to the Minister for the giving of an access licence in relation to the agreement.
- (2) The licence application must—
  - (a) be in writing; and
  - (b) include a description of the activity to which the access licence is to relate (the *proposed activity*); and

- (c) include a plan that shows the land (the *proposed licence land*)—
    - (i) on which the proposed activity is to be carried out; and
    - (ii) to which entry is required to carry out the proposed activity and to remediate the land on which the activity is carried out; and
  - (d) provide evidence the conditions precedent for the giving of the access licence have been met; and
  - (e) comply with a requirement for the licence application stated in the development agreement.
- (3) For subsection (2)(b)—
- (a) to the extent the proposed activity is to be carried out on land in project area A—the activity must be for the agreement stage for the development agreement; and
  - (b) to the extent the proposed activity is to be carried out on land in project area B—the activity must be an activity mentioned in section 8(1)(b).
- (4) For subsection (2)(c), the proposed licence land must be in the agreement area for the development agreement.
- (5) The proponent must not make the licence application if the proponent already holds an access licence in relation to the development agreement.
- (6) The licence application is taken not to have been made if, before the application is decided—
- (a) the applicant stops being the proponent for the development agreement; or
  - (b) the development agreement stops having effect.

## 11 Requests to applicants about licence applications

- (1) The Minister may, by notice, ask the applicant for the licence application—

- (a) to complete or correct the application in a stated way if the Minister considers the application is incorrect, incomplete or defective; or
  - (b) to give the Minister stated further information about the application; or
  - (c) to give the Minister a statutory declaration verifying information stated in the application or further information given under paragraph (b).
- (2) The applicant must comply with the request within—
- (a) the period stated in the notice or, if no period is stated, 30 days after the request is made; or
  - (b) the extended period decided by the Minister.
- (3) The Minister may refuse to decide the licence application until the request is complied with.
- (4) Subsection (5) applies if the applicant does not comply with the request—
- (a) within the period or extended period mentioned in subsection (2); or
  - (b) to the satisfaction of the Minister.
- (5) Despite section 12, the Minister may refuse the licence application.

## **12 Deciding licence applications**

- (1) After receiving the licence application, the Minister must—
- (a) if satisfied the conditions precedent for the giving of the access licence have been met—give the access licence to the applicant; or
  - (b) otherwise—refuse the licence application.
- (2) If the decision is to refuse the licence application, the Minister must give the applicant notice of the decision, including the reasons for the decision.

### **13 Form of access licences**

An access licence must—

- (a) be written; and
- (b) state the name of the entity to whom the licence is given; and
- (c) state the day the licence is given; and
- (d) include a description of the activity to which the licence relates; and
- (e) include a plan that shows the land—
  - (i) on which the activity is authorised to be carried out; and
  - (ii) to which entry is authorised; and
- (f) state the licence is subject to the conditions mentioned in section 14(1); and
- (g) state each condition imposed under section 14(1)(g).

### **14 Conditions of access licences**

- (1) An access licence is subject to the following conditions—
  - (a) the authorised activity must not be carried out unless the holder of the access licence, or a person acting on behalf of the holder, holds each approval, licence, permit or other authority required under law for the carrying out of the activity;
  - (b) the holder of the access licence must not interfere with another person's lawful use of the licence land under an existing approval unless—
    - (i) the other person consents to the interference; or
    - (ii) the holder of the access licence has taken all reasonable steps to obtain the other person's consent to the interference and the interference is reasonably required for the carrying out of the authorised activity;

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- (c) the holder of the access licence must, in the way stated in the relevant development agreement for the licence, pay to the State the amount of rent for the use of the licence land stated in the agreement;
  - (d) the holder of the access licence must comply with the relevant development agreement for the licence;
  - (e) the holder of the access licence may remediate land in accordance with the licence, and enter on licence land for that purpose, after the licence stops having effect;
- Note—*
- See also section 17.
- (f) a condition provided under the relevant development agreement for the access licence;
  - (g) another condition the Minister considers appropriate.
- (2) However, an access licence is not subject to a condition mentioned in subsection (1)(f) if—
- (a) the Minister considers the condition is not appropriate; and
  - (b) the licence states it is not subject to the condition.
- (3) Subsection (4) applies if the licence land for an access licence includes land in project area B.
- (4) In considering, under subsection (2)(a), whether a condition is not appropriate, the Minister must consult with the Minister responsible for administering the *Forestry Act 1959*.

## 15 Term of access licences

- (1) An access licence—
- (a) takes effect on registration under section 25; and
  - (b) continues in effect until the earliest of the following days or events—
    - (i) the expiry day for the access licence stated in the relevant development agreement for the licence or, if a related project lease is renewed under

section 46, the end of the term of the renewed project lease;

- (ii) the relevant development agreement for the access licence stops having effect;
  - (iii) the day that is 30 days after the holder of the access licence stops being the proponent for the relevant development agreement for the licence;
  - (iv) a related project lease stops having effect, other than because the lease is taken to have been surrendered under the *Land Act 1994*, section 162(6);
  - (v) the access licence is surrendered under section 20;
  - (vi) the access licence is cancelled under section 21;
  - (vii) 29 June 2109.
- (2) However, an access licence does not stop having effect under subsection (1)(b)(iii) if, before the day mentioned in the subsection, the holder of the licence complies with section 27(1)(a) in relation to a transfer of the licence.
- (3) In this section—
- related project lease***, in relation to an access licence, means a project lease given in relation to the same development agreement as the access licence.

## 16 Effect on access licences if licence land stops being in particular areas

To remove any doubt, it is declared that—

- (a) an access licence in relation to land that is a State forest or State plantation forest does not stop having effect only because the land stops being a State forest or State plantation forest; and
- (b) an access licence in relation to land in the licence area for a plantation licence or plantation sublicense does not stop having effect only because—



- (i) the land stops being in the licence area; or
- (ii) the plantation licence or plantation sublicense stops having effect.

## **17 Particular conditions continue after access licences end**

A condition of an access licence mentioned in section 14(1)(e) continues to apply to the holder of the licence after the licence stops having effect.

## **Division 3 Amending, surrendering and cancelling access licences**

### **18 Making amendment applications**

- (1) The holder of an access licence may apply (an *amendment application*) to the Minister to amend the matters included in the licence under section 13(d) or (e).
- (2) The amendment application must—
  - (a) be in writing; and
  - (b) provide evidence the conditions precedent for the giving of the access licence, as amended, have been met; and
  - (c) comply with a requirement for the amendment application stated in the relevant development agreement for the access licence; and
  - (d) if the access licence has been mortgaged—be accompanied by the mortgagee’s written consent to the amendment.
- (3) Section 11 applies in relation to the amendment application as if—
  - (a) a reference in the section to a licence application were a reference to the amendment application; and
  - (b) the reference in section 11(5) to section 12 were a reference to section 19.

## **19 Deciding amendment applications**

- (1) After receiving the amendment application, the Minister must—
  - (a) approve or refuse the application; and
  - (b) if the decision is to approve the application—give the applicant a copy of the amendment; and
  - (c) if the decision is to refuse the application—give the applicant notice of the decision, including the reasons for the decision.
- (2) The Minister must not approve the amendment application unless satisfied the conditions precedent for the giving of the access licence, as amended, have been met.
- (3) Also, the Minister must not approve the amendment application if the amendment would have the effect that—
  - (a) to the extent the authorised activity for the access licence is to be carried out on land in project area A—any part of the authorised activity is not for the agreement stage under the relevant development agreement for the licence; or
  - (b) to the extent the authorised activity for the access licence is to be carried out on land in project area B—any part of the authorised activity is not an activity mentioned in section 8(1)(b); or
  - (c) the licence land for the access licence includes land outside the agreement area for the relevant development agreement for the licence.
- (4) An amendment of an access licence takes effect when the amendment is registered under section 25.

## **20 Surrender of access licences**

- (1) The holder of an access licence may surrender the licence—
  - (a) on terms agreed between the holder and the Minister; and

- (b) with the Minister's written approval.
- (2) If the access licence has been mortgaged, the Minister must not approve the surrender of the licence unless the holder of the licence gives the Minister a copy of the mortgagee's written consent to the surrender.
- (3) The surrender takes effect when it is registered under section 26.

## 21 Cancellation of access licences

- (1) The Minister may, by notice given to the holder of an access licence (a *cancellation notice*), cancel the licence if—
  - (a) the Minister has given the holder of the licence a compliance notice; and
  - (b) the holder of the licence has not complied with the compliance notice; and
  - (c) each condition precedent for the giving of the cancellation notice, stated in the relevant development agreement for the licence, has been met.
- (2) The cancellation takes effect on the day the cancellation notice is given or a later day stated in the notice.

## 22 Minister may give compliance notices

- (1) This section applies if the Minister believes the holder of an access licence has not complied with a condition of the licence.
- (2) The Minister may give the holder of the access licence a notice requiring the holder to remedy the non-compliance (a *compliance notice*).
- (3) The compliance notice must state the following—
  - (a) the Minister believes the holder of the access licence has not complied with a condition of the licence;
  - (b) the grounds for the belief;

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- (c) the holder of the access licence must remedy the non-compliance within a stated reasonable period;
- (d) the access licence may be cancelled under section 21 if the holder of the licence does not comply with the compliance notice.

## **Division 4                    Transferring and mortgaging    access licences**

### **23        Transfers of access licences**

- (1) An access licence may be transferred to another entity (the *transferee*)—
  - (a) only if—
    - (i) the holder of the licence stops being the proponent for the relevant development agreement for the licence; and
    - (ii) the transferee is the new proponent for the relevant development agreement for the licence; and
    - (iii) the Minister, by notice given to the holder of the licence, approves the transfer; and
  - (b) except to the extent the relevant development agreement for the licence provides that the licence may not be transferred.
- (2) For subsection (1)(a)(iii), the Minister must approve the transfer if satisfied—
  - (a) subsection (1)(a)(i) and (ii) applies in relation to the transfer; and
  - (b) the transfer is not prohibited under subsection (1)(b).
- (3) The Minister’s approval of the transfer lapses on the day that is 3 months after the approval is given unless the holder of the access licence complies with section 27(1)(a) in relation to the transfer before that day.

- (4) The transfer takes effect when it is registered under section 27.

## **24 Mortgages of access licences**

- (1) The holder of an access licence may mortgage the licence—
- (a) only if the Minister, by notice given to the holder, approves the mortgaging of the licence; and
  - (b) only in compliance with the relevant development agreement for the licence; and
  - (c) except to the extent the relevant development agreement for the licence provides that the licence may not be mortgaged.
- (2) The Minister's approval of the mortgage lapses on the day that is 3 months after the approval is given unless the holder of the access licence complies with section 27(1)(a) in relation to the mortgage before that day.
- (3) The mortgage takes effect when it is registered under section 27.

## **Division 5 Registration of particular matters**

### **25 Registration of access licences and amendments**

- (1) If an access licence is given or amended under this part—
- (a) the Minister must—
    - (i) lodge the licence or amendment with the registrar of titles; and
    - (ii) for an amendment of an access licence that has been mortgaged—give the registrar a copy of the mortgagee's written consent to the amendment; and
  - (b) the registrar must register the access licence or amendment in the register of State forests.

- (2) The registration of an access licence under subsection (1) creates an interest in land.

## **26 Requirements if access licences stop having effect**

- (1) If an access licence is surrendered under section 20—
- (a) the Minister must—
    - (i) lodge notice of the surrender with the registrar of titles; and
    - (ii) for the surrender of an access licence that has been mortgaged—give the registrar a copy of the mortgagee’s written consent to the surrender; and
  - (b) the registrar must register the surrender in the register of State forests.
- (2) If an access licence stops having effect other than because the licence is surrendered under section 20—
- (a) the Minister must notify the registrar that the licence has stopped having effect; and
  - (b) the registrar must record the matter in the register of State forests.

## **27 Registration of transfers and mortgages**

- (1) If an access licence is transferred or mortgaged under this part—
- (a) the holder of the licence must—
    - (i) lodge a document for the transfer or mortgage with the registrar of titles; and
    - (ii) give the registrar a copy of the Minister’s approval of the transfer or mortgage; and
  - (b) the registrar must register the transfer or mortgage in the register of State forests.
- (2) However, the registrar of titles must not register the transfer or mortgage if—

- (a) the Minister has not approved the transfer or mortgage; or
  - (b) the Minister's approval of the transfer or mortgage has lapsed.
- (3) Also, subsection (1)(b) is subject to the *Land Act 1994*, section 287.
- (4) The *Land Act 1994*, section 299A applies in relation to the transfer or mortgage of an access licence as if—
- (a) a reference in the section to the *Land Act 1994* includes a reference to this Act; and
  - (b) a reference in the section to the Minister includes a reference to the Minister responsible for administering this Act.

## Part 4 Leasing land in project area

### Division 1 Preliminary

#### 28 Conditions precedent for giving and renewing project leases

For this part, the *conditions precedent* for the giving or renewal of a project lease in relation to a development agreement are as follows—

- (a) if native title exists in relation to a part of the agreement area for the development agreement—an ILUA in relation to the project must be in effect for the part of the agreement area and must—
  - (i) provide that the parties to the ILUA consent to the giving or renewal of the project lease; and
  - (ii) provide for the payment of compensation in relation to the effect of the giving or renewal of the project lease on native title rights and interests; and

- (iii) provide that no compensation is payable by or on behalf of the State under the ILUA;
- (b) if the development agreement provides that particular development for the agreement stage must be carried out before the project lease is given or renewed—the development has been carried out;
- (c) if the development agreement provides that compensation must be paid by the proponent for the agreement, or another specified entity, to a plantation licensee before the project lease is given or renewed—the compensation has been paid;
- (d) if, under the development agreement, a condition must be met before the project lease is given or renewed—the condition has been met.

## **Division 2                      Applications for project leases**

### **29            Making lease applications**

- (1) The proponent for a development agreement may apply (a *lease application*) to the Minister for the giving of a project lease in relation to the agreement if the proponent holds an access licence in relation to the agreement.
- (2) The lease application must—
  - (a) be in writing; and
  - (b) state the purpose of the project lease; and
  - (c) include a plan of survey of the lease land; and
  - (d) provide evidence the conditions precedent for the giving of the project lease have been met; and
  - (e) comply with a requirement for the lease application stated in the development agreement; and
  - (f) be accompanied by the fee prescribed by regulation.



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- (3) For subsection (2)(b), the purpose of the project lease must be for, and only for, a purpose that—
    - (a) relates to the agreement stage; and
    - (b) is stated in the development agreement.
  - (4) For subsection (2)(c), the lease land must be in the agreement area for the development agreement.
  - (5) The proponent must not make the lease application if the proponent already holds a project lease in relation to the development agreement.
  - (6) The lease application is taken not to have been made if, before the application is decided—
    - (a) the applicant stops being the proponent for the development agreement; or
    - (b) the development agreement stops having effect; or
    - (c) the applicant's access licence in relation to the development agreement stops having effect.

### **30 Requests to applicants about lease applications**

- (1) The Minister may, by notice, ask the applicant for the lease application—
  - (a) to complete or correct the application in a stated way if the Minister considers the application is incorrect, incomplete or defective; or
  - (b) to give the Minister stated further information about the application; or
  - (c) to give the Minister a statutory declaration verifying information stated in the application or further information given under paragraph (b).
- (2) The applicant must comply with the request within—
  - (a) the period stated in the notice or, if no period is stated, 30 days after the request is made; or
  - (b) the extended period decided by the Minister.

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- (3) The Minister may refuse to decide the lease application until the request is complied with.
- (4) Subsection (5) applies if the applicant does not comply with the request—
  - (a) within the period or extended period mentioned in subsection (2); or
  - (b) to the satisfaction of the Minister.
- (5) Despite section 31, the Minister may refuse the lease application.

### **31 Deciding lease applications**

- (1) After receiving the lease application, the Minister must—
  - (a) if satisfied the conditions precedent for the giving of the project lease have been met—offer the lease to the applicant; or
  - (b) otherwise—refuse the application.
- (2) If the decision is to refuse the lease application, the Minister must give the applicant notice of the decision, including the reasons for the decision.

### **32 Notices of offer**

- (1) If the Minister decides to offer a project lease under section 31(1)(a) in relation to a development agreement, the Minister must give the applicant a notice stating—
  - (a) any conditions on which the offer is made; and
  - (b) the conditions to which the project lease will be subject under section 37; and
  - (c) the rent payable under the *Land Act 1994* for the project lease; and
  - (d) the term of the project lease.

*Note—*

For other matters that must be included in an offer of a project lease, see also the *Land Act 1994*, section 139 as applied by division 3.

- (2) For subsection (1)(d), the term of the project lease must end on or before the earlier of the following days—
  - (a) the expiry day for an access licence stated in the relevant development agreement for the project lease;
  - (b) the day that is 45 years after the project lease takes effect;
  - (c) 29 June 2109.
- (3) The *Land Act 1994*, chapter 7, part 1D applies in relation to the offer as if the offer were made under that Act.
- (4) The offer is accepted only if the applicant complies with the conditions of the offer.
- (5) The offer is taken not to have been made, and any acceptance of the offer has no effect, if, before the project lease is given—
  - (a) the applicant stops being the proponent for the development agreement; or
  - (b) the development agreement stops having effect; or
  - (c) the applicant's access licence in relation to the development agreement stops having effect.

### **33 When Land Act Minister must give project leases**

- (1) If the applicant for a lease application accepts an offer of a project lease under this division, the Land Act Minister must, under the *Land Act 1994*, section 15(2)(b), give the lease to the applicant in accordance with the terms of the accepted offer.
- (2) If the lease land is not a reserve, subsection (1) applies as if the lease land were a reserve.
- (3) Subsection (1) applies subject to the *Land Act 1994*, section 138, as applied by division 3.

## **Division 3                      Provisions about project leases**

### **34            Application of Land Act 1994 to project leases**

- (1) Subject to this part, the *Land Act 1994* applies in relation to a project lease, including a dealing with a project lease.
- (2) For applying the *Land Act 1994* in relation to a project lease, the lease is a State lease under that Act, even if the lease land is not a reserve.

### **35            Provisions of Land Act 1994 that do not apply in relation to project leases**

The following provisions of the *Land Act 1994* do not apply in relation to a project lease—

- (a) section 16;
- (b) section 32;
- (c) section 34C(a);
- (d) chapter 4, part 1, divisions 1, 2 and 2A;
- (e) section 154;
- (f) section 155;
- (g) chapter 4, part 3, division 2, subdivision 2, other than section 162(5) to (7);

*Note—*

See also section 46(5).

- (h) chapter 4, part 3, divisions 3, 4 and 5;
- (i) chapter 5, part 2, division 2;
- (j) section 241(d);
- (k) chapter 5, part 5;
- (l) section 322;
- (m) sections 327A, 327G and 330(a);
- (n) chapter 6, part 4, division 3.

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**36 Modified application of particular provisions of Land Act 1994**

- (1) The *Land Act 1994*, sections 138, 139, 140 and 141 apply in relation to a project lease as if a reference in the sections to an offer were a reference to an offer of a project lease under this part.
- (2) The *Land Act 1994*, section 138A applies in relation to a project lease as if—
  - (a) a reference in the section to a lease under chapter 4, part 1 of that Act were a reference to the project lease; and
  - (b) a reference in the section to ‘offered under this part’ were a reference to offered under division 2.
- (3) The *Land Act 1994*, chapter 4, part 3, division 2, subdivision 1AA applies in relation to a project lease as if—
  - (a) a reference in the subdivision to ‘the Minister’ were a reference to the Minister responsible for administering this Act; and
  - (b) a reference in the *Land Act 1994*, section 156 to a ‘renewal application’ were a reference to a renewal application under this Act.
- (4) The *Land Act 1994*, sections 176Y, 176Z and 176ZA apply in relation to a project lease as if a reference in the sections to ‘this part’ includes a reference to this Act.
- (5) The *Land Act 1994*, section 299A applies in relation to a project lease as if—
  - (a) a reference in the section to the *Land Act 1994* includes a reference to this Act; and
  - (b) a reference in the section to ‘the Minister’ includes a reference to the Minister responsible for administering this Act.
- (6) If the Minister gives the lessee for a project lease an improvements notice under the *Land Act 1994*, section 156A—

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- (a) chapter 7, part 3, division 2 of that Act applies in relation to the improvements notice as if a reference in the division to ‘the Minister’ or ‘the chief executive’ were a reference to the Minister responsible for administering this Act; and
- (b) the lessee may not appeal under the *Land Act 1994*, chapter 7, part 3, division 3 against a review decision under that Act in relation to the improvements notice.

### **37 Conditions of project leases**

- (1) A project lease is subject to the following conditions—
  - (a) the lessee must not interfere with another person’s lawful use of the lease land under an existing approval unless—
    - (i) the other person consents to the interference; or
    - (ii) the lessee has taken all reasonable steps to obtain the other person’s consent to the interference and the interference is reasonably required for the use of the land for the purpose of the project lease;
  - (b) the lessee must comply with—
    - (i) the relevant development agreement for the project lease; and
    - (ii) a condition of the related access licence;
  - (c) a condition provided under the following instruments, as in effect when the project lease is given—
    - (i) the relevant development agreement for the project lease;
    - (ii) the related access licence;
  - (d) a condition about the protection and sustainability of the lease land the Minister considers appropriate;
  - (e) another condition to which the project lease is subject under the *Land Act 1994*, including, for example, a

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condition imposed on the lease under chapter 5, part 2, division 1 or 3A of that Act.

- (2) However, a project lease is not subject to a condition mentioned in subsection (1)(c) if—
  - (a) the Minister considers the condition is not appropriate; and
  - (b) the project lease states it is not subject to the condition.
- (3) Subsection (4) applies if the lease land for a project lease includes land in project area B.
- (4) In considering, under subsection (2)(a), whether a condition is not appropriate, the Minister must consult with the Minister responsible for administering the *Forestry Act 1959*.
- (5) A condition may not be imposed on a project lease under the *Land Act 1994*, chapter 5, part 2, division 2.

*Note—*

However, see section 38(1) for conditions under this section that are taken to be imposed conditions under the *Land Act 1994*.

### **38 Particular conditions taken to be imposed conditions for Land Act 1994**

- (1) For the *Land Act 1994*, a condition to which a project lease is subject under section 37, other than a condition mentioned in section 37(1)(e), is taken to be an imposed condition of the lease under that Act.
- (2) However—
  - (a) the condition binds the lessee whether or not the condition is registered under the *Land Act 1994*; and
  - (b) the following provisions of the *Land Act 1994* do not apply in relation to the condition—
    - (i) chapter 5, part 2, division 3;
    - (ii) section 240L(7);
    - (iii) section 240M(2)(a) and (b);

(iv) section 240P(6) and (8).

### **39 When project leases stop having effect**

- (1) Without limiting the *Land Act 1994*, a project lease stops having effect if—
  - (a) the relevant development agreement for the lease stops having effect; or
  - (b) the related access licence stops having effect; or
  - (c) the lease is surrendered under section 41.
- (2) Also, a project lease stops having effect on the day that is 30 days after the lessee stops being the proponent for the relevant development agreement for the lease unless the lessee complies with section 49(1)(a) in relation to a transfer of the lease before that day.
- (3) To remove any doubt, it is declared that—
  - (a) a project lease in relation to land that is a State forest or State plantation forest does not stop having effect only because the land stops being a State forest or State plantation forest; and
  - (b) a project lease in relation to land in the licence area for a plantation licence or plantation sublicense does not stop having effect only because—
    - (i) the land stops being in the licence area; or
    - (ii) the plantation licence or plantation sublicense stops having effect.

### **40 Effect of project leases ending**

If a project lease stops having effect in relation to land—

- (a) any part of the land that is State forest remains State forest; and
- (b) any part of the land that is a reserve remains a reserve; and



- (c) any part of the land that is not State forest or a reserve becomes unallocated State land under the *Land Act 1994*.

## **Division 4                      Surrendering and transferring project leases**

### **41                      Surrender of project leases**

- (1) The lessee for a project lease may surrender all or part of the lease—
  - (a) on terms agreed between the lessee and the Minister; and
  - (b) with the Minister’s written approval.
- (2) The *Land Act 1994*, sections 327C to 327F and 327I apply in relation to the surrender of the project lease—
  - (a) as if a reference in the sections to ‘the chief executive’ or ‘the Minister’ were a reference to the Minister responsible for administering this Act; and
  - (b) with any other necessary changes.

### **42                      Transfers of project leases**

- (1) A project lease may be transferred to another entity (the *transferee*)—
  - (a) only if—
    - (i) the lessee stops being the proponent for the relevant development agreement for the lease; and
    - (ii) the transferee is the new proponent for the relevant development agreement for the lease; and
    - (iii) the transferee is, under the *Land Act 1994*, eligible to hold the lease; and
    - (iv) the Minister, by notice given to the lessee, approves the transfer; and

- (b) except to the extent any of the following prohibit the transfer—
  - (i) a condition of the lease;
  - (ii) the relevant development agreement for the lease;
  - (iii) the *Land Act 1994*.
- (2) For subsection (1)(a)(iv), the Minister must approve the transfer if satisfied—
  - (a) subsection (1)(a)(i) to (iii) applies in relation to the transfer; and
  - (b) the transfer is not prohibited under subsection (1)(b).
- (3) The Minister’s approval of the transfer lapses on the day that is 3 months after the approval is given unless the lessee complies with section 49(1)(a) in relation to the transfer before that day.

## Division 5                      **Renewal of project leases**

### **43            Making renewal applications**

- (1) The lessee for a project lease may apply (a ***renewal application***) to the Minister for the renewal of the lease.
- (2) However, subsection (1) does not apply if—
  - (a) the project lease was given under section 46(1); or
  - (b) the relevant development agreement for the project lease, or a condition of the lease, prohibits the renewal of the lease.
- (3) Also, the renewal application may be made only after 90% of the term of the project lease has expired unless, in the Minister’s opinion, special circumstances exist.
- (4) The renewal application must—
  - (a) be in writing; and
  - (b) state the proposed term of the renewed project lease; and

- (c) provide evidence the conditions precedent for the renewal of the project lease have been met; and
  - (d) comply with a requirement for the renewal application stated in the relevant development agreement for the project lease; and
  - (e) be accompanied by the fee prescribed by regulation.
- (5) Section 30 applies in relation to the renewal application as if—
- (a) a reference in the section to a lease application were a reference to the renewal application; and
  - (b) the reference in section 30(5) to section 31 were a reference to section 44.

#### **44 Deciding renewal applications**

- (1) After receiving the renewal application, the Minister must—
- (a) if satisfied the conditions precedent for the renewal of the project lease have been met—offer a new project lease to the applicant; or
  - (b) otherwise—refuse the application.
- (2) However, the Minister may refuse the renewal application if satisfied the applicant has not complied with a condition of the project lease.

*Note—*

See also section 30(5) as applied by section 43(5).

- (3) If the decision is to refuse the renewal application, the Minister must give the applicant notice of the decision, including the reasons for the decision.

#### **45 Notices of offer**

- (1) If the Minister decides to offer a new project lease under section 44(1)(a), the Minister must give the applicant a notice stating—

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- (a) any conditions on which the offer is made; and
  - (b) the conditions to which the new project lease will be subject under section 37; and
  - (c) the rent payable under the *Land Act 1994* for the new project lease; and
  - (d) the term of the new project lease.
- (2) For subsection (1)(d), the term of the new project lease must end on or before the earlier of the following days—
- (a) the day that is 45 years after the new project lease takes effect;
  - (b) 29 June 2109.
- (3) The *Land Act 1994*, chapter 7, part 1D applies in relation to the offer as if the offer were made under that Act.
- (4) The offer is accepted only if the applicant complies with the conditions of the offer.
- (5) The offer is taken not to have been made, and any acceptance of the offer has no effect, if, before the new project lease is given, the project lease the subject of the renewal application stops having effect.

#### **46 When Land Act Minister must give new project leases**

- (1) If the applicant for a renewal application accepts an offer of a new project lease under this division, the Land Act Minister must, under the *Land Act 1994*, section 15(2)(b), give the lease to the applicant in accordance with the terms of the accepted offer.
- (2) If the lease land is not a reserve, subsection (1) applies as if the lease land were a reserve.
- (3) Subsection (1) applies subject to the *Land Act 1994*, section 138.
- (4) The new project lease must be for the same purpose as the project lease the subject of the renewal application.

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- (5) The *Land Act 1994*, section 162(5) to (7) applies in relation to the new project lease as if—
- (a) a reference in the section to a new lease were a reference to the new project lease; and
  - (b) a reference in the section to an old lease were a reference to the project lease the subject of the renewal application.

#### **47 Application of Land Act 1994, s 434B to renewal applications**

- (1) The *Land Act 1994*, section 434B applies in relation to a renewal application for a project lease as if—
- (a) a reference in the section to an application were a reference to the renewal application; and
  - (b) a reference in the section to ‘the Minister’ were a reference to the Minister responsible for administering this Act.
- (2) Despite the *Land Act 1994*, section 434B, the term of the project lease must not be extended under that section beyond 29 June 2109.

## **Division 6 Registration of particular matters**

#### **48 Requirements if project leases stop having effect**

- (1) If a project lease stops having effect under section 39 because the lease has been surrendered under section 41—
- (a) the Minister must lodge with the registrar of titles the documents required for the surrender under the *Land Act 1994*, section 327E; and
  - (b) the registrar must register the surrender in the land registry.
- (2) Subsection (1)(b) is subject to the *Land Act 1994*, section 330(b) and (c).

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- (3) If a project lease stops having effect under section 39 other than because the lease has been surrendered under section 41—
  - (a) the Minister must notify the registrar of titles that the lease has stopped having effect; and
  - (b) the registrar must record the matter in the land registry.

## **49 Registration of transfers**

- (1) If a project lease is transferred under this part—
  - (a) the lessee must—
    - (i) lodge a document for the transfer with the registrar of titles; and
    - (ii) give the registrar a copy of the Minister’s approval of the transfer; and
  - (b) the registrar must register the transfer in the land registry.
- (2) However, the registrar of titles must not register the transfer if—
  - (a) the Minister has not approved the transfer; or
  - (b) the Minister’s approval of the transfer has lapsed.
- (3) Also, subsection (1)(b) is subject to the *Land Act 1994*, section 287.

# **Part 5 Internal review of decisions**

## **50 Who may apply for internal review**

- (1) This section applies in relation to a renewal application for a project lease that is refused under section 44 if the only reason for the refusal is that the applicant has not complied with a condition of the lease.

- (2) The applicant for the renewal application may apply to the Minister for a review of the decision (an *internal review*).

## 51 Applications for internal review

- (1) The application for internal review must be made within—
- (a) 42 days after notice of the decision is given to the applicant under section 44(3); or
  - (b) the extended period decided by the Minister.
- (2) The application for internal review must—
- (a) be in writing; and
  - (b) state the grounds on which the review is sought.

## 52 Internal review decisions

- (1) Unless the Minister made the decision to refuse the renewal application personally, the Minister must ensure the application for internal review is not dealt with by—
- (a) the person who made the decision; or
  - (b) a person in a less senior office in the department than the person who made the decision.
- (2) After reviewing the decision to refuse the renewal application (the *original decision*), the Minister must make a further decision (the *review decision*)—
- (a) confirming the original decision; or
  - (b) amending the original decision; or
  - (c) substituting another decision for the original decision.
- (3) The Minister must give the applicant notice of the review decision.
- (4) If the review decision is not the decision sought by the applicant, the notice must state—
- (a) the day the notice is given to the applicant; and

- (b) the reasons for the decision.

## **Part 6 Remediation of land in project area**

### **53 Relevant entity for project instruments**

For this part, the *relevant entity* for a project instrument that stops having effect is—

- (a) if the project instrument is an access licence—the entity that was the holder of the licence immediately before the licence stopped having effect; or
- (b) if the project instrument is a development agreement—the entity that was the proponent for the agreement immediately before the agreement stopped having effect; or
- (c) if the project instrument is a project lease—the entity that was the lessee for the lease immediately before the lease stopped having effect.

### **54 Minister may require particular entities to remediate land in project area**

- (1) This section applies if—
  - (a) a project instrument stops having effect; and
  - (b) the relevant entity for the project instrument has not complied with an obligation imposed on the entity under the instrument to remediate land in the project area (the *remediation obligation*); and
  - (c) the land—
    - (i) is a State plantation forest; and
    - (ii) is in the licence area for a plantation licence or plantation sublicense.



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- (2) The Minister may give the plantation licensee for the plantation licence, or the plantation sublicensee for the plantation sublicense, a notice (a *remediation notice*) requiring the licensee or sublicensee to remediate the land, in accordance with the remediation obligation, within—
    - (a) if the project instrument is a development agreement and the agreement states a period for this subsection—the period stated in the agreement; or
    - (b) if the project instrument is an access licence or project lease and the relevant development agreement for the licence or lease states a period for this subsection—the period stated in the agreement; or
    - (c) otherwise—the period, of at least 3 months after the remediation notice is given, stated in the notice.
  - (3) The remediation notice must not be given within the period of 3 months after the project instrument stops having effect.
  - (4) The requirement stated in the remediation notice is taken to be a condition of—
    - (a) if the notice is given to a plantation licensee—the plantation licence; or
    - (b) if the notice is given to a plantation sublicensee—the plantation sublicense.

## Part 7 Miscellaneous provisions

### 55 Inconsistency with Land Act 1994

If a provision of this Act is inconsistent with a provision of the *Land Act 1994*, the provision of this Act prevails to the extent of the inconsistency.

### 56 Relationship with Forestry Act 1959

- (1) Despite the *Forestry Act 1959*, section 26(1A)—

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- (a) an access licence may be given under part 3 in relation to land that is a State forest; and
  - (b) a project lease may be given under part 4 and the *Land Act 1994* in relation to land that is a State forest; and
  - (c) an access licence in relation to land that is a State forest may be dealt with under this Act; and
  - (d) a project lease in relation to land that is a State forest may be dealt with under this Act and the *Land Act 1994*.
- (2) Subject to the *Forestry Act 1959*, section 61SF(2)(b), the giving of an access licence, or project lease, in relation to land in the licence area for a plantation licence or plantation sublicense does not affect a right, obligation or interest of the plantation licensee or plantation sublicensee under—
- (a) the plantation licence or plantation sublicense; or
  - (b) a related agreement under the *Forestry Act 1959*; or
  - (c) the *Forestry Act 1959*.
- (3) To remove any doubt, it is declared that—
- (a) an access licence or project lease may be given in relation to land that is a State forest even if the giving of the licence or lease is inconsistent with the *Forestry Act 1959*, section 33; and
  - (b) a project lease is not a lease given under the *Forestry Act 1959*, section 35(5), and section 35(5), (6) and (6A) of that Act does not apply in relation to a project lease; and
  - (c) the giving of an access licence, or project lease, in relation to land that is a State forest does not affect the exercise of a power, or the performance of a function, by a person under the *Forestry Act 1959* in relation to the land.

*Notes—*

- 1 See also section 57 in relation to the payment of compensation to a plantation licensee or plantation sublicensee.

- 2 See also sections 16 and 39(3) in relation to the effect of particular matters under the *Forestry Act 1959* on an access licence or project lease.

## **57 No compensation payable by State**

- (1) No compensation is payable by or on behalf of the State to a person in relation to the enactment or operation of this Act.
- (2) Without limiting subsection (1), no compensation is payable by or on behalf of the State to a person arising directly or indirectly from any of the following—
  - (a) the giving or amendment of an access licence under part 3;
  - (b) the surrender or cancellation of an access licence, or an access licence otherwise ceasing to have effect, under part 3;
  - (c) a decision to refuse a licence application under part 3;
  - (d) a decision to impose, or not impose, a condition on an access licence;
  - (e) a decision to refuse an amendment application under section 19;
  - (f) a decision to approve or not approve the surrender, transfer or mortgage of an access licence;
  - (g) a decision to give a compliance notice;
  - (h) a decision to refuse a lease application or renewal application under part 4;
  - (i) a decision to offer a project lease to a person under part 4;
  - (j) a decision to impose, or not impose, a condition on a project lease or offer under part 4;
  - (k) the giving or amendment of a project lease under part 4;
  - (l) the surrender of a project lease, or a project lease otherwise ceasing to have effect, under part 4;

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- (m) a decision to approve or not approve the surrender or transfer of a project lease;
- (n) the giving of a remediation notice under section 54.
- (3) This section applies despite anything to the contrary in—
  - (a) another Act or law; or
  - (b) a plantation licence; or
  - (c) a plantation sublicense.

## **58 Delegation**

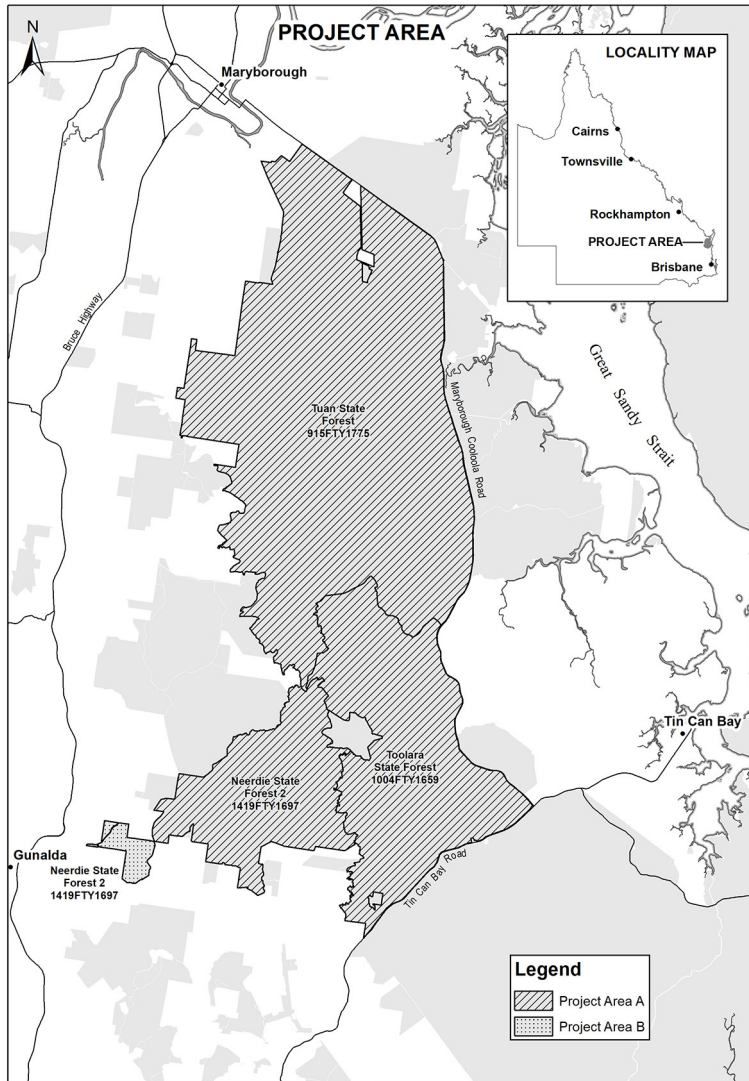
The Minister may delegate the Minister's functions or powers under this Act to the chief executive.

## **59 Regulation-making power**

The Governor in Council may make regulations under this Act.

# Schedule 1 Project area A and project area B

schedule 2, definitions *project area A* and *project area B*



## Schedule 2 Dictionary

### section 5

***access licence*** means an access licence given under part 3.

***agreement area***, in relation to a development agreement, means the part of the project area described in the agreement under section 6(b)(iii).

***agreement stage***, in relation to a development agreement, means the stage of the project the subject of the agreement.

***amendment application*** see section 18(1).

***authorised activity***, in relation to an access licence, means the activity described in the licence under section 13(d), as amended from time to time.

***compliance notice*** see section 22(2).

***conditions precedent***—

- (a) for the giving of an access licence—see section 9; or
- (b) for the giving or renewal of a project lease—see section 28.

***development agreement*** see section 6.

***existing approval***, in relation to an access licence or project lease, means any of the following instruments given or made under an Act and in effect immediately before the access licence or project lease takes effect—

- (a) an agreement;
- (b) an approval, licence, permit or other authority.

***ILUA*** means an indigenous land use agreement registered in the Register of Indigenous Land Use Agreements under the *Native Title Act 1993* (Cwlth).

***internal review*** see section 50(2).

***Land Act Minister*** means the Minister responsible for administering the *Land Act 1994*.

**land registry** means the land registry under the *Land Act 1994*.

**lease application** see section 29(1).

**lease land** see the *Land Act 1994*, schedule 6.

**lessee**, for a project lease, means the person registered in the land registry as the holder of the lease.

**licence application** see section 10(1).

**licence area**, for a plantation licence or plantation sublicense, means the area of State plantation forest specified in the licence or sublicense as the licence area for the licence or sublicense.

**licence land**, in relation to an access licence, means the land shown on a plan in the licence under section 13(e), as amended from time to time.

**notice** means written notice.

**plantation licence** means a plantation licence under the *Forestry Act 1959*.

**plantation licensee** means a plantation licensee under the *Forestry Act 1959*.

**plantation sublicense** means a plantation sublicense under the *Forestry Act 1959*.

**plantation sublicensee** means a plantation sublicensee under the *Forestry Act 1959*.

**project**—

- (a) means the development and operation of a wind farm, consisting of no more than 226 wind turbines at a time, in the project area; and
- (b) includes the development and operation of a building, facility, structure or works associated with the wind farm.

**project area** means the area that consists of project area A and project area B.

**project area A** means the area shown on the map in schedule 1 as Project Area A.

**project area B** means the area shown on the map in schedule 1 as Project Area B.

**project instrument** means an access licence, development agreement or project lease.

**project lease** means a lease given under part 4.

**proponent**, for a development agreement, means the entity stated in the agreement to be the proponent for the agreement.

**register of State forests** means the register of State forests and timber reserves under the *Land Act 1994*.

**registrar of titles** means the registrar of titles under the *Land Title Act 1994*.

**related access licence**, in relation to a project lease, means an access licence given in relation to the same development agreement as the project lease.

**relevant development agreement**, for an access licence or project lease, means the development agreement in relation to which the licence or lease was given.

**relevant entity**, for part 6, see section 53.

**remediate**, in relation to land, includes the following—

- (a) remove from the land equipment associated with the project;
- (b) decommission or remove any building, structure, infrastructure or works associated with the project that are on or below the land.

**renewal application** see section 43(1).

**reserve** see the *Land Act 1994*, schedule 6.

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

**State plantation forest** see the *Forestry Act 1959*, schedule 3.