

# Natural Resources and Other Legislation (GDA2020) Amendment Bill 2019

## Explanatory Notes

### Short title

The short title of the Bill is the *Natural Resources and Other Legislation (GDA2020) Amendment Act 2019*.

### Policy objectives and the reasons for them

The policy objectives of the Bill are to:

- Implement the new national standard of measurement of position, Geocentric Datum Australia 2020 (GDA2020), for the future collection and provision of location data.
- Clarify the historical datum for position references or upgrade position references to GDA2020 (where appropriate).
- Ensure that Queensland legislation is responsive to national measurement standards as they evolve or new ones are adopted.
- Improve the effectiveness of processes for renewing term leases, land title registration, making model by-laws for trust land, and for conducting ballots for interests in state land.
- Enhance and clarify land titling processes.
- Enable the Queensland Government to give effect to commitments given as part of an Indigenous Land Use Agreement to grant unallocated state land (USL) as freehold, without competition, to the Traditional Owners of the land.
- Extend the boundary of the Cape York Peninsula region to include additional land parcels that are either properties added to the Daintree National Park or state land adjacent to the park.

### GDA2020

In anticipation of the growing use and reliance on positioning technology, the Permanent Committee on Geodesy – a dedicated working group under the Australia and New Zealand Land Information Council's (ANZLIC) permanent committee, the Intergovernmental Committee on Surveying and Mapping (ICSM) – led the development of the upgrade to Australia's static 'plate fixed' datum, the Geocentric Datum of Australia 1994 (GDA94) to the Geocentric Datum of Australia 2020 (GDA2020).

The Australian Government adopted GDA2020 as the standard for measurement of position by making a determination under the Australian Government's *National Measurement Act 1960* (Cwlth) (National Measurement Act) in 2017. ANZLIC agreed that all Australian jurisdictions would adopt GDA2020 by 30 June 2020. Legislative amendments are required in Queensland to support the adoption of GDA2020.

To locate a position accurately, a reference framework (datum) and a coordinate system (latitudes and longitudes) are required. A datum is a tool used to define the shape and size of the earth and provide the reference point for coordinate systems, which map the earth. Datums are used where people rely on location information, for example in surveying, cartography, geology, navigation, and astronomy. Without a datum, the location of points on the earth cannot be identified consistently.

In Australia, coordinates for features on our maps (e.g. roads and buildings) most commonly use the Geocentric Datum Australia 1994 (GDA94). GDA94 is 'static' meaning that coordinates for features are fixed in relation to Australia's continental plate and do not change over time.

In contrast, global satellite positioning system coordinates for features on the earth's surface will change over time, as these systems take into account the movement of tectonic plates.

By 2020, Australia will have moved about 1.8 metres in a north easterly direction since the adoption of GDA94. With increased use of devices that provide precise satellite positioning (e.g. smartphones), people will notice discrepancies between the satellite position and GDA94-mapped features.

With the adoption GDA2020, there will be better alignment between Australia's national datum and satellite positioning measurements. While position information has always been important for the mapping and surveying community, its importance to our technologically advanced society is increasing. Examples of where position is important include, automated vehicles, remote controlled industrial equipment (e.g. in the mining/agriculture sectors) and drone technology. All Australian jurisdictions have been collaborating since 2015 to define and implement GDA2020.

With the adoption of GDA2020, previous datums (Australian Geodetic Datum 1966 (AGD66), Australian Geodetic Datum 1984 and GDA94) remain valid. Provided a position reference for a feature has a coordinate and a datum defined, then the coordinates can be transformed between datums.

The Bill makes necessary legislative amendments to support the adoption of GDA2020 in Queensland by ANZLIC's implementation date. The Bill amends the:

- *Geothermal Energy Act 2010* (Geothermal Energy Act)
- *Gold Coast Waterways Authority Act 2012* (Gold Coast Waterways Authority Act)
- *Greenhouse Gas Storage Act 2009* (Greenhouse Gas Storage Act)
- *Land Act 1994* (Land Act)
- *Mineral Resources Act 1989* (Mineral Resources Act)
- *Minerals and Energy Resources (Common Provisions) Act 2014* (Minerals and Energy Resources (Common Provisions) Act)

- *Petroleum Act 1923* (Petroleum Act)
- *Petroleum and Gas (Production and Safety) Act 2004* (Petroleum and Gas (Production and Safety) Act)
- Survey and Mapping Infrastructure Regulation 2014 (Survey and Mapping Infrastructure Regulation) under the *Survey and Mapping Infrastructure Act 2003*
- *Transport Infrastructure Act 1994* (Transport Infrastructure Act).

The amendments either:

- Require the definition of position information in a particular format using the latest standard for position (i.e. GDA2020).
- Ensure that historical position descriptions that regulate activities at a specific location/position or within an administrative area are referenced correctly and, where appropriate, updated to GDA2020.

Section 167(3) of the Land Act and section 143 the Petroleum Act specify the format position information must be collected in, or provided. It is appropriate for these spatial information requirements to define position(s) using the latest national standard, currently GDA2020. The Land Act and Petroleum Act provisions will use the datum defined in the Survey and Mapping Infrastructure Regulation, as a single point of truth for the datum used for survey and mapping. This ensures the provisions remain contemporary and consistently apply the latest standard for position. Further changes to the national standard for position are inevitable as technology continues to improve, more accurate and real-time position information is demanded in the digital economy, and continental plates continue to drift. It is therefore important to design the legislation to be responsive to this ongoing need for efficient datum updates.

The Bill also ensures position references are technically complete and, where appropriate, updated to GDA2020. Some position references in Queensland legislation are not technically complete, for example where coordinates are provided without the associated datum. The coordinates for a given position change depending on the datum used; therefore, failure to include the datum reference with coordinates can render the coordinate information ambiguous.

The Bill makes amendments to the Transport Infrastructure Act to clarify that certain position references were defined using GDA94. The Bill also amends the Mineral and Energy Resources (Common Provisions) Act and Resource Acts to clarify the historical datum (AGD66) used to define blocks and sub-blocks. Resource Acts include the Geothermal Energy Act, Greenhouse Storage Act, Mineral Resources Act, Petroleum Act, Petroleum and Gas (Production Safety) Act. The provision also clarifies that while the original graticulation into blocks and sub-blocks was undertaken in AGD66, the chief executive also has the ability to display the blocks and sub-blocks in a spatial database that uses the current datum.

The amendments to the Gold Coast Waterways Authority Act under the Bill update position references from GDA94 to GDA2020. These amendments include updated coordinates expressed in GDA2020 for areas near the mouth of Currumbin Creek, the Gold Coast Seaway and the mouth of Tallebudgera Creek. While the coordinates are different when expressed in GDA94 and GDA2020, both refer to the same position or location in Queensland.

The proposed amendments will ensure Queensland's regulatory framework remains effective and responsive and aligns with national and international standards for spatial positioning. These amendments will enhance trust in our services, and align with "Be a responsive government" Advancing Queensland Priority, positioning the State as a leader in digital government. The amendments will also support the Department of Natural Resources, Mines and Energy's (DNRME) building of Queensland's future spatial digital infrastructure (e.g. 3dQLD) which will foster growth and diversification of Queensland's economic industries in construction, agriculture, mining and tourism.

### State land management process amendments

#### *Renewal of term leases*

Under the current provisions in the Land Act, renewal of a term lease is contingent on the lessee lodging an application. The Bill will amend the Land Act to enable the chief executive to make an offer of a new lease prior to the lessee lodging an application. The general provisions which the chief executive must consider before deciding whether or not to offer a new lease remain the same. These amendments provide an efficient pathway to lease renewal, which does not require lodgement of a formal application, whilst still achieving the purposes of the Act. These changes will drive resource savings for government and reduce the number of steps a lessee must take to renew their term lease.

#### *Grant of freehold land under an Indigenous Land Use Agreements*

The Queensland Government regularly enters into Indigenous Land Use Agreements under the *Native Title Act 1993* where the grant of land to First Nation peoples is a key component of the agreement. This can be readily achieved where native title has not been extinguished, as the native title holders meet the priority criteria for granting land without competition under the Land Act. This is not the case where native title has been extinguished and can prevent the terms of the Indigenous Land Use Agreement from being met, frustrating the aspirations of First Nation peoples and other parties to the agreement.

Currently, the priority criteria for granting land without competition under the Land Act can be met if the First Nation people lodge a native title claim over the particular lot of land to have the previous extinguishment disregarded, which would revive their native title. This is a resource intensive and lengthy process and imposes costs on both the Queensland Government and First Nation peoples, and needlessly adds to the Federal Court's workload.

To avoid such lengthy and costly processes, the Bill provides for the grant of land, without competition, to the people who would have otherwise held native title, but for historical extinguishment of their native title. The particulars of land to be granted, and to whom, must be identified in an Indigenous Land Use Agreement. The deed will be granted to a person or corporation to be held on trust for the identified Aboriginal people or Torres Strait Islanders. The amendment eliminates unnecessary costs and time, ordinarily outlaid by native title holders to lodge a new native title claim or seeking a grant of Aboriginal or Torres Strait Islander freehold.

The National Native Title Tribunal can establish certainty regarding who are the right people for the land through public notification and registration of the Indigenous Land Use Agreement. In these circumstances, the purchase price, or consideration, for the land (if any) will be as specified in the relevant Indigenous Land Use Agreement with the State of Queensland.

The amendment does not affect any existing processes or rights of people to apply for the land through the existing competitive or non-competitive processes, depending on their circumstances. It provides an additional option for granting land under the Land Act. Until an application is made for the land, the land is available for anyone to make an application.

#### *Making model by-laws*

The Land Act provides that the Governor in Council may by regulation, make model by-laws for trust land. The model by-laws are optional to adopt.

The process for making and publishing by-laws is time consuming, outdated and cumbersome particularly when compared to the process for making and publishing model local laws under the *Local Government Act 2009* (Local Government Act).

The Bill amends the Land Act to allow the Minister to make the model by-laws and to permit their publication on a Queensland government website.

#### *Ballot process for competitive land allocation*

Under the Land Act, interest in state land may be made available with or without competition. Where interests in land are to be made available by competition, the Land Act provides that the processes, which may be used, are auction, tender or ballot.

The current ballot process, prescribed in regulation, is outdated. The Bill replaces the current head of power for conducting ballots with new provisions that provide the chief executive with the power and flexibility to adopt an appropriate, modern competitive process. The new provision specifies the matters the chief executive must take into account when determining the ballot process to be followed.

## Land titling and minor consequential amendments

### *Land titling amendments*

The amendments to the Land Title Act and corresponding provisions of the Land Act will assist in digital processing of leases, make certain Land Act processes consistent with the Land Title Act in relation to issuing deed of grant or granting leases to trustees, clarify requirements for registration of digitally lodged instruments, and update or clarify provisions in minor respects.

### *Minor consequential amendments to the South Bank Corporation Act*

References in the *South Bank Corporation Act 1989* (South Bank Corporation Act) to certificates of title will be amended to align with March 2019 amendments to the Land Title Act made by the *Land, Explosives and Other Legislation Amendment Act 2019*.

## Cape York Peninsula Region map amendments

The Department of Environment and Science (DES) and DNRME jointly administer the *Cape York Peninsula Heritage Act 2007* (Cape York Peninsula Heritage Act). The Cape York Peninsula Heritage Act enables the identification of the significant natural and cultural values of Cape York Peninsula (CYP), and its cooperative and ecologically sustainable management.

The boundary of the CYP Region is identified in a map referenced in section 7 of the Cape York Peninsula Heritage Act and the map is published on the DNRME website. The CYP Region map was last updated in 2013 to include lands in the suite of 2007 Eastern Kuku Yalanji Indigenous Land Use Agreements – including the iconic Daintree National Park.

Under the *Nature Conservation Act 1992* (Nature Conservation Act), national parks and certain state land in the CYP Region (including that identified under the Cape York Peninsula Heritage Act) can be transferred to Aboriginal ownership. Parts of the national parks and state land may also be converted to national park (Cape York Peninsula Aboriginal Land) which are jointly managed national parks.

The Bill amends the Cape York Peninsula Heritage Act to update the boundary of the CYP Region to include additional land parcels. These additional land parcels are: four land parcels added to the Daintree National Park since 2007; two parcels of unallocated state land; and a road parcel adjacent to the park. The three parcels of state land were identified through a state-wide land allocation program.

The amendment ensures that the additional land is able to be transferred to Aboriginal ownership and parts of the land dedicated as national park (Cape York Aboriginal Land), providing that the CYP protected area estate is managed uniformly by the Eastern Kuku Yalanji people and DES. The amendment supports negotiations underway with the Eastern Kuku Yalanji people (represented by Jabalbina Yalanji Aboriginal Corporation) about the transfer of land to Aboriginal ownership in the CYP Region.

## **Achievement of policy objectives**

### GDA2020

The Bill achieves its objectives by:

- Consolidating the definition of blocks and sub-blocks used in Resource Acts into the Mineral and Energy Resources (Common Provisions) Act and clarifying the datum used in the graticulation of the earth's surface into blocks and sub-blocks, which was AGD66. Resource Acts include the Geothermal Energy Act, the Greenhouse Storage Act, the Mineral Resources Act, the Petroleum Act, and the Petroleum and Gas (Production Safety) Act.
- Inserting a provision in the Mineral and Energy Resources (Common Provisions) Act to allow the chief executive to display the blocks and sub-blocks in a spatial database by reference to any datum.
- Amending the Petroleum Act to ensure that position is defined using the datum specified in the Survey and Mapping Infrastructure Regulation, which is GDA2020.
- Amending the Land Act to ensure that position information provided by the chief executive administering the Nature Conservation Act during a lease conversion is provided consistent with the datum specified in the Survey and Mapping Infrastructure Regulation, which is GDA2020.
- Updating coordinate references to GDA2020 in the Gold Coast Waterways Authority Act.
- Clarifying the datum used in Transport Infrastructure Act to identify the Gateway Motorway Facility and the Logan Motorway Facility was GDA94.
- Amending the geodetic reference framework under the Survey and Mapping Infrastructure Regulation to adopt the new national standard for position under the National Measurement Act, which is GDA2020.

### State land management process amendments

The Bill achieves its objectives by:

- Amending the provisions that relate to renewal of term leases, such that the chief executive can be proactive in making an offer to renew a lease where the department has assessed that renewal of the lease is appropriate and consistent with the objectives of the Land Act.
- Amending the Land Act to enable a deed of grant of USL to be granted, without competition, to an entity that represents the people who would have otherwise held native title but for historical extinguishment of their native title.
- Removing the provision, which requires that the Governor in Council make a model by-law by regulation and instead providing for the Minister to make a model by-law.
- Replacing the current head of power for conducting ballots with new provisions, which would provide the chief executive with the power and flexibility to adopt an appropriate, modern competitive process.

### Land titling and minor consequential amendments

The Bill achieves its objectives by:

- Introducing the concept of a ‘building lease plan’ into both the Land Title Act and the Land Act to facilitate future changes to lease registration processes.
- Providing that certain documents relating to the issue of a deed of grant or lease to a trustee under the Land Act are consistent with the documents required when recording an interest in the name of trustee under the Land Title Act.
- Inserting new provisions into the Land Title Act and Land Act to clarify that certifications made under the participation rules determined under the Electronic Conveyancing National Law (Queensland) can be relied on for the purposes of registering electronic conveyancing documents.
- Removing an expired provision from the Land Act.
- Replacing headings for two Land Title Act provisions to remove duplication.
- Removing references to paper certificates of title, now redundant, in the South Bank Corporation Act.

### Cape York Peninsula Region map amendments

The Bill achieves its objectives by:

- Amending the Cape York Peninsula Heritage Act to refer to a new map that redefines the CYP Region, to include four land parcels added to the Daintree National Park since 2007 plus three parcels of state land.

## **Alternative ways of achieving policy objectives**

The regulatory frameworks amended by the Bill are enshrined in legislation and may only be altered by amending legislation. There is no alternative way to achieve the identified policy objectives.

## **Estimated cost for government implementation**

### GDA2020

There are no additional costs to government from implementing the legislative amendments to adopt GDA2020.

Queensland Government’s spatial infrastructure is being upgraded as part of the adoption of GDA2020. The long lead-time for implementation of the new geodetic reference framework, including the development of products and educational materials, coupled with early engagement with systems owners has allowed for costs of necessary changes to be absorbed into departmental budget allocations.



If no changes were made, there would be potential for significant costs to arise for systems owners and end users in managing the disparity between GDA94 spatial data references and updated national GDA2020 based spatial data, or spatial data available through Global Navigation Satellite Systems technology (e.g. GPS).

#### State land management process amendments

The changes enhance the existing framework to provide an alternative, more efficient pathway to renewal of term leases.

There are no additional costs to government associated with the amendments. Any implementation costs to update departmental guidelines and work practices will occur within the existing budget allocations.

#### Land titling and consequential amendments

There are no additional costs to government associated with the amendments.

#### Cape York Peninsula Region map amendments

The cost of implementing these amendments fall within existing departmental budget allocations.

## **Consistency with fundamental legislative principles**

### GDA2020

Some amendments supporting the adoption of GDA2020 arguably breach the fundamental legislative principles (FLPs) about having sufficient regard to the institution of Parliament. This relates to using the GDA2020 determination under the National Measurement Act in the definition under the Survey and Mapping Infrastructure Regulation.

A potential FLP breach is that a regulation potentially changes an Act. For example, a change to the datum reference in the Survey and Mapping Infrastructure Regulation would change the position information requirement under section 167 of the Land Act and section 143 of the Petroleum Act to require the information to be provided in the latest national standard for position. This amendment of datum requires the position information to be provided in the latest national datum, but it does not change the physical location or the boundary of the point, line or area over which the information is to be provided.

Another potential FLP breach stems from using the GDA2020 determination under the National Measurement Act in the definition of the datum standard under the Survey and Mapping Infrastructure Regulation, arguably undermining the sovereignty of the Queensland Parliament. This, however, is mitigated by limiting the standard for the collection and sharing of position information under the Survey and Mapping Infrastructure Regulation to the GDA2020 determination under the National

Measurement Act, as it stands at the date when the proposed amendments in the Bill commence. Should there be a change to the GDA2020 determination under the National Measurement Act, this will have no effect on Queensland's legislation. Queensland will need to amend the Survey and Mapping Infrastructure Regulation to adopt future changes to datum under the National Measurement Act.

#### State land management process amendments

Amendments to the Land Act relating to renewal of term leases will enable the chief executive to make an offer of a new lease, without requiring the lessee to lodge an application for lease renewal. The amendments provide an alternative pathway to lease renewal that is not reliant on lodgement of an application. The amendments are consistent with the principles of natural justice and do not diminish the existing rights of the lessee to lodge an application to renew a lease. The proposed amendments are consistent with fundamental legislative principles.

Amendments to the Land Act relating to conducting a ballot for competitive land allocation and making model by-laws reduce regulatory burden and facilitate an appropriate transfer of administrative power. The proposed amendments are consistent with fundamental legislative principles.

Amendments to the Land Act relating to model by-laws may raise concerns about removing parliamentary oversight in relation to potential impact on rights if model by-laws are adopted. The department does not consider that there is any breach of fundamental legislative principles as: the model by-laws do not provide powers to trustees beyond what they can currently exercise under the Land Act; and the making of model by-laws is modelled on the current process for making model local laws under the Local Government Act.

The granting of USL as part of native title Indigenous Land Use Agreement negotiations may raise concern about breaching the fundamental legislative principle regarding the rights and liberties of individuals. The amendment, however, is consistent with similar provisions dealing with state land.

The Land Act includes a number of land allocation provisions that allow for the grant of land without requiring a competitive process. The amendment adds to these existing provisions the scenario of granting unallocated state land pursuant to an Indigenous Land Use Agreement that the state is a party to.

Where native title has been extinguished, the native title party could apply for the land to be granted in priority without competition by lodging a native title claim and seeking to have the prior extinguishment disregarded. This is an expensive and time-consuming process for all parties, which the amendment will achieve more efficiently.

Being USL means that the land has been available for any interested person to apply for, but no one has to date. This additional provision does not affect existing competitive or non-competitive allocation provisions; it is in addition to these. Any person who wishes to apply for unallocated state land will not be prevented from doing so, or otherwise be disadvantaged.

### Land titling and consequential amendments

There are no potential breaches of FLPs associated with the land titling amendments and minor consequential amendments to the South Bank Corporation Act.

### Cape York Peninsula Region map amendments

There are no potential breaches of FLPs associated with the minor amendment to the Cape York Heritage Peninsula Act.

## **Consultation**

### GDA2020

Since 2015, the ICSM has consulted widely with users and has developed tools and technical resources needed to assist with the datum transition.

Since 2017, DNRME has worked with Queensland's surveying and spatial profession and other spatial data custodians across state and local governments to identify the steps required to ensure the State's spatial datasets become consistent with the new GDA2020. During this consultation, officers from DNRME met with more than 1000 surveying, engineering and spatial professionals from across the state focussing on the technical and operational matters associated with the transition to GDA2020. DNRME's Land and Spatial Information group, through a state-wide technical coordination group, is leading the next phase of technical implementation.

### State land management process amendments

No public consultation was undertaken with regards to the renewal of term leases given that the amendments are minor.

### Land titling and consequential amendments

Minor amendments (Land Act section 374) follow on from previous legislative changes, which were the subject of consultation with Queensland Law Society (QLS), and are to achieve consistency between provisions or clarity for electronic conveyancing processes/requirements.

Regarding the introduction of the 'building lease plan' (section 65 of Land Title Act and section 335 of the Land Act), there has been early consultation with the surveying industry and there will be further consultation with the surveying industry, development industry and the QLS when implementation is planned.

### Cape York Peninsula Region map amendments

Consultation has occurred with the Eastern Kuku Yalanji people via Jabalbina Yalanji Aboriginal Corporation, Wet Tropics Management Authority, Cape York Land Council Aboriginal Corporation and North Queensland Land Council. All stakeholders consulted supported the amendment of the Cape York Peninsula Region boundary.

## **Consistency with legislation of other jurisdictions**

### GDA2020

ANZLIC announced that all Australian jurisdictions would adopt GDA2020 by 30 June 2020. ICSM recognised that to adopt GDA2020 changes were required to regulatory frameworks across all Australian jurisdictions. The Geocentric Datum of Australia Modernisation Implementation Working Group under ICSM established a sub-committee to determine and assess the legislative implications associated with implementing the GDA2020. The sub-committee made a recommendation to ICSM about how to reference location information for administrative areas defined by coordinates and the collection and provision of location information in a specific coordinate reference system. Each jurisdiction is moving to adopt the recommendations. The amendments in the Bill are consistent with the recommendations of the ICSM sub-committee.

The amendments in this Bill are also consistent with the Australian Government National Measurement Act.

### State land management process amendments

State land management processes for lease renewal, allocation of state land by competition and creation of model by-laws varies across jurisdictions with each jurisdiction regulating these matters differently.

### Land titling and consequential amendments

Land titling legislation is in place in every Australian jurisdiction and while there are some fundamental similarities, the legislation reflects differences in how jurisdictions regulate some aspects of land titling and how processes have changed in response to jurisdictional requirements and advances in technology. Comparisons to other jurisdictions' legislation are not relevant to these amendments.

### Cape York Peninsula Region map amendments

The amendment in this Bill is specific to the State of Queensland and is not uniform or complementary to legislation of the Australian Government or another Australian jurisdiction.

# Notes on provisions

## Part 1 Preliminary

### Short title

*Clause 1* states the short title of the Act on commencement is *Natural Resources and Other Legislation (GDA2020) Amendment Act 2019*.

### Commencement

*Clause 2* stipulates that Parts 3, 4, 5, 8, 9, 10, 11, 13, 14 and Division 3 of Part 6 will commence on a date to be fixed by proclamation. All other Parts will commence on assent.

## Part 2 Amendment of Cape York Peninsula Heritage Act 2007

### Act amended

*Clause 3* provides for the amendment of the *Cape York Peninsula Heritage Act 2007* (Cape York Peninsula Heritage Act). The purpose of the Cape York Peninsula Heritage Act is the cooperative management, protection and ecologically sustainable use of land, including pastoral land, in the Cape York Peninsula Region.

### Amendment of s 7 (Meaning of *Cape York Peninsula Region*)

*Clause 4* amends section 7 of the Cape York Peninsula Heritage Act, which provides that the Cape York Peninsula Region is as shown on a map called 'designated map'. The amendment updates the definition of 'designated map' to reference a new map that extends the boundary of the Cape York Peninsula Region to include additional parcels of land.

The new map to define the Cape York Peninsula Region includes four additional parcels of land that have been added to the Daintree National Park since 2007, plus three parcels of state land adjacent to the national park identified through a state-wide land allocation program. By amending the boundary of Cape York Peninsula Region the additional land is able to be transferred to Aboriginal ownership and parts of it to be dedicated as national park (Cape York Aboriginal Land), ensuring that the Cape York Peninsula protected area estate is uniformly managed.

## Part 3 Amendment of Geothermal Energy Act 2010

### Act amended

*Clause 5* provides for the amendment of the *Geothermal Energy Act 2010* (Geothermal Energy Act). The purpose of the Geothermal Energy Act is to facilitate the safe production of geothermal energy for the benefit of Queensland.

## **Omission of s 26 (Graticulation of earth's surface into *blocks* and *sub-blocks*)**

*Clause 6* removes section 26 of the Geothermal Energy Act, which provides for the division of the earth's surface into areas called 'blocks and sub-blocks'. It allows for the identification of the area of a geothermal tenure in an orderly manner. The division of 'blocks and sub-blocks' within section 26 of the Geothermal Energy Act, and similar definitions across other Resource Acts, will be replaced by a common definition inserted into the *Mineral and Energy Resources (Common Provisions) Act 2014* (Mineral and Energy Resources (Common Provisions) Act). This new common definition provides the same meaning as section 26 of the Geothermal Energy Act, but clarifies the historical geodetic reference frame (AGD66) in which the division of the earth's surface has been devised.

## **Amendment of sch 2 (Dictionary)**

*Clause 7* amends the dictionary definition of 'blocks' and 'sub-blocks' in the Geothermal Energy Act to refer to a common definition of these terms to be provided in the Mineral and Energy Resources (Common Provisions) Act. The amendment provides for common definition across the Resource Acts, clarifying the datum (AGD66) applied in defining the boundary of 'blocks' and 'sub-blocks'.

## **Part 4 Amendment of Gold Coast Waterways Authority Act 2012**

### **Act amended**

*Clause 8* provides of the amendment of the *Gold Coast Waterways Authority Act 2012* (Gold Coast Waterways Authority Act). This Act establishes the Gold Coast Waterways Authority to manage strategically the development and use of Gold Coast waterways.

### **Amendment of sch 1 (Gold Coast waters)**

*Clause 9* amends sections 1, 2 and 3 in schedule 1 of the Gold Coast Waterways Authority Act to update location information used to define the Gold Coast waterway boundaries of areas near the mouth of Currumbin Creek, the Gold Coast Seaway and the mouth of Tallebudgera Creek. The amendment adopts boundary coordinates worked out using the GDA2020 datum. The effect of the amendment is to describe the location of these boundaries in the most up to date datum (GDA2020), but it does not alter the location of the existing waterway boundaries on the ground.

This clause also inserts a new section 4 (definition of position) into Schedule 1, making it clear that position is defined by reference to GDA2020. GDA2020 is defined under the *National Measurement (Recognized-Value Standard of Measurement of Position) Determination 2017* (Cwlth) as in force at the commencement of this amendment. This is provided by using the reference "*the commencement*" without indicating a particular Act or provision in the definition of GDA2020, which under section 32F(2) of the *Acts Interpretation Act 1954* means the commencement refers to the commencement of the provision in which the reference occurs.

New section 4 of schedule 1 makes it clear which datum applies to the position information (e.g. latitude and longitude coordinates) provided in schedule 1. This means the position information can be used to identify correctly and consistently, locations on the ground. Without the datum reference, the position information provided in schedule 1 would be ambiguous.

## **Part 5 Amendment of Greenhouse Gas Storage Act 2009**

### **Act amended**

*Clause 10* provides for the amendment of the *Greenhouse Gas Storage Act 2009* (Greenhouse Gas Storage Act). The Greenhouse Gas Storage Act reduces the impact of greenhouse gas emissions on the environment, by establishing greenhouse gas geological authorities to facilitate the process called greenhouse gas geological storage.

### **Omission of s 26 (Graticulation of earth's surface into *blocks* and *sub-blocks*)**

*Clause 11* removes section 26 of the Greenhouse Gas Storage Act, which provides for the division of the earth's surface into areas called 'blocks' and 'sub-blocks'. It allows for the identification of the area of a greenhouse gas tenure in an orderly manner. The division of 'blocks' and 'sub-blocks' within section 26 of the Greenhouse Gas Storage Act, and similar definitions across other Resource Acts, will be replaced by a common definition inserted into the Mineral and Energy Resources (Common Provisions) Act. The new common definition provides the same meaning as section 26 of the Greenhouse Gas Storage Act, but clarifies the historical geodetic reference frame (AGD66) in which this division of the earth's surface has been devised.

### **Amendment of sch 2 (Dictionary)**

*Clause 12* amends the dictionary definition for 'blocks' and 'sub-blocks' in the Greenhouse Gas Storage Act to refer to a common definition of these terms to be provided in the Mineral and Energy Resources (Common Provisions) Act. The amendment provides for common definition across the Resource Acts, clarifying the datum (AGD66) applied in defining the boundary of 'blocks' and 'sub-blocks'.

## **Part 6 Amendment of Land Act 1994**

### **Division 1 Preliminary**

#### **Act amended**

*Clause 13* provides for the amendment of the *Land Act 1994* (Land Act). The Land Act regulates the administration and management of non-freehold land and deeds of grant in trust and the creation of freehold land, and other related purposes.

## **Division 2 Amendments commencing on assent**

### **Insertion of new s 123A**

*Clause 14* inserts a new section 123A into the Land Act to provide for granting deeds of grant to be held on trust over unallocated state land, under an Indigenous Land Use Agreement, without competition.

The Queensland Government regularly enters into Indigenous Land Use Agreements under the *Native Title Act 1993* (Cwlth) where the grant of land to First Nation peoples is a key component of the agreement. This can be readily achieved where native title has not been extinguished, as the native title holders meet the priority criteria for granting land without competition under the Land Act.

This amendment provides for unallocated state land to be granted, without competition under an Indigenous Land Use Agreement where native title has been extinguished and the native title party would have held the native title except for any prior extinguishment of the native title.

### **New section 123A (Deeds of grant of unallocated State land under indigenous land use agreements)**

New section 123A sets out the conditions required for the Minister to be satisfied that it is appropriate to issue a deed of grant over unallocated state land without competition pursuant to an Indigenous Land Use Agreement.

The section applies where the state is a party to an Indigenous Land Use Agreement, the Indigenous Land Use Agreement is registered per the *Native Title Act 1993* (Cwlth) and the agreement provides for the grant of land.

The native title party to the Indigenous Land Use Agreement either must hold or claim to hold native title to the area, or would have except for any prior extinguishment of the native title rights and interests.

The land can be granted to an individual or corporation, which is identified in the Indigenous Land Use Agreement. The grantee must hold the land on trust for the identified Aboriginal peoples or Torres Strait Islanders for the land that is to be granted. The land granted under new section 123A is not DOGIT land under the Land Act.

The purchase price for the land is as set out in the Indigenous Land Use Agreement or otherwise decided by the Minister as prescribed by regulation.



### **Amendment of s 157A (Chief executive's approval required for renewal)**

*Clause 15* removes the requirement for a lessee to lodge an application to renew a term lease in order for the chief executive to approve a lease renewal.

This will allow the chief executive to proactively make an offer to renew a lease where the department has assessed that renewal of the lease is appropriate and consistent with the objectives of the Land Act.

### **Amendment of s 159 (General provisions for deciding application)**

*Clause 16* makes consequential amendments to clarify remove references and clarify that a lessee does not need to lodge an application in order for the lease to be renewed.

This amendment supports the change in lease renewal process allowing the chief executive to make a proactive offer to renew a lease.

### **Amendment of s 159A (Provisions for decision about most appropriate form of tenure)**

*Clause 17* amends section 159A(4)(a) by the addition of '*application*' after '*renewal*', to clarify that an application to renew a lease is taken to be an application to convert the current interest in the land to an alternative form of tenure, in circumstances where the chief executive considers that a lease is no longer an appropriate form of tenure.

This amendment is consequential and supports the change in lease renewal process allowing the chief executive to make a proactive offer to renew a lease.

### **Amendment of s 160 (Notice of chief executive's decision)**

*Clause 18* amends section 160(1) to replace '*applicant*' with '*lessee under the existing term lease*' to reflect the amendments made to section 157A of the Land Act under this Bill, which removes the requirement for a lessee to lodge an application in order for the chief executive to make an offer of a new lease.

### **Amendment of s162 (Issuing of new lease)**

*Clause 19* amends section 162(2) to clarify that a new lease can be granted for the same purpose as the lease being renewed rather than the lease identified in the lease renewal application.

Section 162 in the Land Act prescribes the considerations for the Minister in issuing a new lease. The amendment to section 162(2) is consequential and supports the change in lease renewal process allowing the chief executive to make an offer to renew a lease where the department has assessed that renewal of the lease is appropriate and consistent with the objectives of the Land Act.

## **Insertion of new s 290R**

*Clause 20* inserts a new section 290R into the Land Act, which provides for the chief executive to rely on certifications made under the participation rules determined under the Electronic Conveyancing National Law (Queensland) when registering an electronic conveyancing document.

### **New section 290R (Registering an electronic conveyancing document)**

New section 290R provides for the chief executive to rely on certifications made under the participation rules determined under the Electronic Conveyancing National Law (Queensland) when registering an electronic conveyancing document.

Under the Electronic Conveyancing National Law (Queensland), electronic conveyancing documents are lodged as digitally signed data. This data is checked against a series of business rules to determine whether it complies with the Land Act and other requirements for registration. In most instances, the electronic conveyancing document is not accompanied by supporting evidence or documentation. Rather the person who digitally signs the document, as mentioned in section 290Q of the Land Act, makes a number of certifications, including certifications that they have retained evidence supporting the electronic conveyancing document and that they have taken reasonable steps to ensure that the electronic conveyancing document is correct and compliant with relevant legislation. The new section clarifies that the chief executive may rely on those certifications for the purposes of registering an electronic conveyancing document.

This amendment is similar to new section 14D of the *Land Title Act 1994* (Land Title Act).

### **Amendment of s 335 (Subleases must be registered)**

*Clause 21* amends section 335(2) of the Land Act to provide for an additional type of plan (a building lease plan), which may be used to identify part of a lease, which is being sub-leased. The chief executive may now require either a sketch plan, a building lease plan or a plan of survey for this purpose. The introduction of building lease plans will facilitate future digital processing of subleases.

This amendment is similar to the amendment made to section 65(2) of the Land Title Act.

### **Omission of ss 358A and 358B**

*Clause 22* omits section 358A and 358B from the Land Act. Section 358A provided a process for amending the register of leasehold land or the freehold land register to record easements, which had been acquired but not recorded in certain circumstances. The purpose of section 358B is to limit compensation payable for an action under section 358A. The provisions only applied for 10 years after their commencement on 6 February 2006, and have now expired.

### **Amendment of s 374 (Details of trust must be given)**

*Clause 23* amends section 374 of the Land Act to clarify the documentation requirements for the Governor in Council to issue a deed of grant or a lease to a person as trustee, namely:

- a document in the form required by the chief executive stating the details of the trust, currently a Titles Registry Form 20 – Trust Details Form; or
- a certified copy of a document creating the trust, generally a trust deed.

This provides consistency with the documentation required for registration of a transfer of an interest to a trustee.

### **Division 3 Amendments commencing by proclamation**

#### **Amendment of s 56 (Model by-laws)**

*Clause 24* removes the requirement for the Governor in Council to make a model by-law for trust land by regulation, and instead, provides for the Minister to make a model by-law for trust land and publish the model by-law on a government website (other than a local government website).

This amendment replaces a time consuming, outdated and cumbersome process for making and publishing by-laws, particularly when compared to the process for making and publishing model local laws under the *Local Government Act 2009*. The model by-laws are still optional to adopt.

#### **Replacement of s 119 (Conduct of ballot)**

*Clause 25* replaces section 119 of the Land Act, which requires a ballot for competitive land allocation to be conducted in a way prescribed by the Land Regulation 2009 (Land Regulation). Replaced section 119 provides the chief executive with the power and flexibility to adopt an appropriate, modern competitive process.

#### **Replaced section 119 (Conduct of ballot)**

The replaced section 119 of the Land Act removes the requirement for a ballot for competitive land allocation to be conducted consistent with requirements specified in the Land Regulation, and instead provides for the chief executive to decide the way in which a ballot must be conducted, taking into account the importance of fairness, transparency and equity.

### **Amendment of s 167 (Provisions for deciding application)**

*Clause 26* amends section 167 of the Land Act, which sets out matters the Minister must consider in assessing a tenure conversion application for a lease. Subsection 167(1) allows for an application for tenure conversion of a lease to have conditions imposed considering the environmental value of the lease land. References to coordinate frameworks relate to deciding whether part of the lease land is required for nature conservation purposes (subject to notice given by a referral agency). Section 167 will be amended to ensure that position information provided by the chief executive administering the *Nature Conservation Act 1992* during a lease conversion is consistent with the datum prescribed in the Survey and Mapping Infrastructure Regulation 2014 (Survey and Mapping Infrastructure Regulation), which will be GDA2020.

A potential breach of a fundamental legislative principle is that a regulation potentially changes an Act, for example where a change to the datum prescribed in the Survey and Mapping Infrastructure Regulation would change information requirements under section 167(3) of the Land Act. Amendment of the prescribed datum changes how position information is to be collected and shared but does not change the location or the boundary of an area. In this instance, the Land Act retains the power to require location information; the regulation only affects the way the information is described.

### **Insertion of new ch 9, pt 5**

*Clause 27* inserts a new part 5 in chapter 9 of the Land Act, providing for decisions under section 167 about tenure conversion applications for a lease, where position information for a nature conservation area had been provided prior to amendment of the prescribed datum made by this Bill.

### **New Part 5 Transitional provision for Natural Resources and Other Legislation (GDA2020) Amendment Act 2019**

#### **New section 540 (Existing applications to convert leases)**

New section 540 provides for potential situations where a conversion application is in progress but not yet decided and position information for a nature conservation area (consistent with the requirements of section 167(3)(b)(ii)) was received prior to amendments to section 167 under this Bill commenced. In these circumstances, the position information as provided prior to commencement amendments to section 167 made under this Bill may be used in the decision about whether to convert a lease.

## **Amendment of sch 6 (Dictionary)**

*Clause 28* amends schedule 6 of the Land Act to omit definitions of ‘Map Grid of Australia 1994’ and ‘required particulars’. These standalone definitions only relate to section 167 of the Land Act, and have been made redundant by amendments to section 167 made under this Bill.

The definition of ‘required particulars’ has been directly incorporated into section 167, and therefore no longer needs to be cited in schedule 6.

The ‘Map Grid of Australia 1994’ definition was omitted as the datum definition in section 167 was updated to a ‘prescribed datum’ under the *Survey Mapping and Infrastructure Act 2003* (Survey and Mapping Infrastructure Act), which is GDA2020. The new definition for ‘prescribed datum’ is incorporated directly into section 167 instead of schedule 6.

## **Part 7 Amendment of Land Title Act 1994**

### **Act amended**

*Clause 29* provides for the amendment of the Land Title Act. The purpose of the Land Title Act is to consolidate and reform the law about the registration of freehold land and interests in freehold land.

### **Insertion of new s 14D**

*Clause 30* inserts a new section 14D, which provides for the registrar to rely on certifications made under the participation rules determined under the Electronic Conveyancing National Law (Queensland) when registering an electronic conveyancing document.

### **New section 14D (Registering an electronic conveyancing document)**

New section 14D provides for the registrar to rely on certificates made under the participation rules determined under the Electronic Conveyancing National Law (Queensland) when registering an electronic conveyancing document.

Under the Electronic Conveyancing National Law (Queensland), electronic conveyancing documents are lodged as digitally signed data. This data is checked against a series of business rules to determine whether it complies with the Land Title Act and other requirements for registration. In most instances, the electronic conveyancing document is not accompanied by any supporting evidence or documentation. Rather the person who digitally signs the document as mentioned in section 14C of the Land Title Act makes a number of certifications, including certifications that they have retained evidence supporting the electronic conveyancing document and that they have taken reasonable steps to ensure that the electronic conveyancing document is correct and compliant with relevant legislation. The new section clarifies that the registrar may rely on those certifications for the purposes of registering an electronic conveyancing document.

### **Amendment of s 65 (Requirements of instrument of lease)**

*Clause 31* amends section 65(2) of the Land Title Act to provide for an additional type of plan (a building lease plan), which may be used to identify part of a lot, which is being leased. The registrar may now require either a sketch plan, a building lease plan or a plan of survey for this purpose. The introduction of building lease plans will facilitate future digital processing of leases.

### **Amendment of s 105 (Lapsing of caveat)**

*Clause 32* amends the heading to 'Lapsing of objector's caveat' to avoid any potential confusion between this section and section 126 of the Land Title Act which has an identical heading.

### **Amendment of s 106 (Further caveat)**

*Clause 33* amends the heading to 'Further objector's caveat' to avoid any potential confusion between this section and section 129 of the Land Title Act, which has an identical heading.

### **Amendment of sch 2 (Dictionary)**

*Clause 34* omits the definition of 'sketch plan' as this term is used only once in the Land Title Act (in section 65) and the context in which it is used means a definition is unnecessary.

## **Part 8 Amendment of Mineral and Energy Resources (Common Provisions) Act 2014**

### **Act amended**

*Clause 35* provides for the amendment of the Mineral and Energy Resources (Common Provisions) Act. The purpose of the Mineral and Energy Resources (Common Provisions) Act is to consolidate provisions common to each of the Resource Acts; provide for common processes that apply to resource authorities and manage overlapping coal and petroleum resource authorities for coal seam gas.

### **Insertion of new s 11A**

*Clause 36* inserts a new section 11A to consolidate the definition of 'blocks' and 'sub-blocks' used across Resource Acts into the Mineral and Energy Resources (Common Provisions) Act. Resource Acts include the Geothermal Energy Act, the Greenhouse Storage Act, the *Mineral Resources Act 1989* (Mineral Resources Act), the *Petroleum Act 1923* (Petroleum Act), and the *Petroleum and Gas (Production and Safety) Act 2004* (Petroleum and Gas (Production and Safety) Act).

**New section 11A (Graticulation of earth's surface into *blocks* and *sub-blocks*)**

New section 11A of the Mineral and Energy Resources (Common Provisions) Act allows for identification of the area of a geo-resource tenure in an orderly manner, and clarifies the datum (AGD66) used in graticulation of the earth's surface into blocks and sub-blocks. Section 11A maintains the approved scheme for identification of 'block' and 'sub-blocks', but also clarifies that the chief executive can display the 'blocks' and 'sub-blocks' in a spatial database by reference to a datum other than AGD66. Displaying 'blocks' and 'sub-blocks' by reference to a datum other than AGD66 does not change the location of the 'blocks' and 'sub-blocks'.

**Part 9 Amendment of Mineral Resources Act 1989****Act amended**

*Clause 37* provides for the amendment of the Mineral Resources Act. The purpose of the Mineral Resources Act is to encourage and facilitate prospecting and exploring for and mining of minerals.

**Omission of s 126 (Blocks and sub-blocks of land)**

*Clause 38* removes section 126 of the Mineral Resources Act, which provides for the division of the earth's surface into areas called 'blocks' and 'sub-blocks'. This allows for the identification of the area of a geo-resource tenure in an orderly manner. The division of 'blocks' and 'sub-blocks' within section 126 of the Mineral Resource Act, and similar definitions across other Resource Acts, will be replaced by a common definition inserted into the Mineral and Energy Resources (Common Provisions) Act. This new common definition provides the same meaning as section 126 of the Mineral Resources Act, but clarifies the historical datum (AGD66) in which this division of the earth's surface has been devised.

**Amendment of sch 2 (Dictionary)**

*Clause 39* amends the dictionary definition for 'blocks' and 'sub-blocks' in the Mineral Resources Act to refer to a common definition of these terms to be provided in the Mineral and Energy Resources (Common Provisions) Act. The amendment provides for common definition across the Resource Acts, clarifying the datum (AGD66) applied in defining the boundary of 'blocks' and 'sub-blocks'.

**Part 10 Amendment of Petroleum Act 1923****Act amended**

*Clause 40* provides for the amendment of the Petroleum Act. The Petroleum Act regulates the mining for petroleum and natural gas in the State and the conveying of petroleum and natural gas, wherever recovered.

## **Amendment of s 2 (Definitions)**

*Clause 41* amends the dictionary definition for 'blocks' and 'sub-blocks' in the Petroleum Act to refer to a common definition of these terms to be provided in the Mineral and Energy Resources (Common Provisions) Act. The amendment provides for common definition across the Resource Acts, clarifying the datum (AGD66) applied in defining the boundary of 'blocks' and 'sub-blocks'.

## **Replacement of s 143 (Points etc. to be ascertained by reference to Australian Geodetic Datum)**

*Clause 42* replaces section 143 of the Petroleum Act, which specifies the format that position information must be collected in or provided. Section 143 currently provides where (for the purposes of the Act) it was necessary to determine the position on the surface of the earth of a point, line or area, that position was to be determined by reference to the AGD66 datum.

## **Replaced section 143 (Position to be ascertained by reference to prescribed geodetic reference framework)**

Section 143 will be replaced to ensure position descriptions will be determined using the datum prescribed under the Survey and Mapping Infrastructure Act, which will be GDA2020. The replaced section will use the datum prescribed in the Survey and Mapping Infrastructure Regulation, as a consistent point of truth for datum. This ensures requirements of the Petroleum Act related to the collection or provision of position information remain contemporary and consistently apply the latest standard.

A potential breach of a fundamental legislative principle is that a regulation potentially changes an Act, for example change to the datum prescribed in the Survey and Mapping Infrastructure Regulation would change information requirements under section 143 of the Petroleum Act. Amendment of the prescribed datum changes how position information is to be collected and shared but does not change the location or the boundary of an area. In this instance the Petroleum Act retains the power to request location information, the regulation simply changes the way the information is described.

## **Part 11 Amendment of Petroleum and Gas (Production and Safety) Act 2004**

### **Act amended**

*Clause 43* provides for the amendment of the Petroleum and Gas (Production and Safety) Act. The Petroleum and Gas (Production and Safety) Act regulates the carrying out of responsible petroleum activities and the development of a safe, efficient and viable petroleum and fuel gas industry.



**Omission of s 29 (Graticulation of earth's surface into *blocks* and *sub-blocks*)**

*Clause 44* removes section 29 of the Petroleum and Gas (Production and Safety) Act, which provides for the division of the earth's surface into areas called 'blocks and sub-blocks'. This allows for the identification of the area of a geo-resource tenure in an orderly manner. The division of 'blocks and sub-blocks' within section 29 of the Petroleum and Gas (Production and Safety) Act, and similar definitions across other Resource Acts, will be replaced by a common definition inserted into the Mineral and Energy Resources (Common Provisions) Act. The new common definition provides the same meaning as section 29 of the Petroleum and Gas (Production and Safety) Act, but clarifies the historical datum (AGD66) in which this division of the earth's surface has been devised.

**Amendment of s 298 (Description of petroleum leases for ch 3 and ch 15, pt 3)**

*Clause 45* amends section 298 of the Petroleum and Gas (Production and Safety) Act, which allows for a petroleum lease applied for or granted under Chapter 3 to be described using 'metes and bounds', despite other requirements for geo-resource areas to be described by the method of 'blocks' and 'sub-blocks'. The function of section 298 is maintained, however, a cross reference to omitted section 29 is to be removed. Omitted section 29 provided a definition for 'blocks' and 'sub-blocks', which is now established under new section 11A in the Mineral and Energy Resources (Common Provisions) Act. Instead of cross referencing omitted section 29, section 298 will cross reference the schedule 2 (dictionary) definitions for 'blocks' and 'sub-blocks'.

**Amendment of sch 2 (Dictionary)**

*Clause 46* amends the dictionary definition for 'blocks' and 'sub-blocks' in the Petroleum and Gas (Production and Safety) Act to refer to a common definition of these terms to be provided in the Mineral and Energy Resources (Common Provisions) Act. The amendment applies a common definition across the Resource Acts, clarifying the datum (AGD66) applied in defining the boundary of 'blocks' and 'sub-blocks'.

**Part 12 Amendment of South Bank Corporation Act 1989****Act amended**

*Clause 47* provides for the amendment of the *South Bank Corporation Act 1989* (South Bank Corporation Act). The object of the South Bank Corporation Act is to provide for the establishment of a South Bank Corporation and the continued effective development and management of the South Bank Corporation Area.

### **Amendment of s 21 (Registrar may register instruments etc.)**

*Clause 48* amends section 21 to delete a reference to the issuing of a certificate of title. The *Land, Explosives and Other Legislation Amendment Act 2019* amended the Land Title Act to remove all provisions relating to certificates of title as from 1 October 2019. From that date, certificates of title (which are paper documents produced from information in the electronic land register) ceased to have any legal status or effect and no longer need to be produced to the Titles Registry for cancellation when an instrument is lodged for registration. The South Bank Corporation Act contains provisions based on the Land Title Act provisions for certificates of title and needs to be amended accordingly.

### **Amendment of s 105 (Reference to single deed of grant only)**

*Clause 49* amends section 105 to remove a reference to a certificate of title. This reference is redundant, as certificates of title were discontinued from 1 October 2019.

### **Amendment of sch 4 (Modified Building Units and Group Titles Act)**

*Clause 50* amends sections 9A, 10A and 20 in schedule 4 to omit subsections providing for the issuing of a certificate of title. This clause also amends sections 21 and 29 in schedule 4 to remove references to certificate of title. These subsections and references are redundant, as certificates of title were discontinued from 1 October 2019.

## **Part 13 Amendment of Survey and Mapping Infrastructure Regulation 2014**

### **Regulation amended**

*Clause 51* provides for the amendment of the Survey and Mapping Infrastructure Regulation under the Survey and Mapping Infrastructure Act. The purpose of the Survey and Mapping Infrastructure Act and Survey and Mapping Infrastructure Regulation is to develop, maintain and improve the State's survey and mapping infrastructure.

### **Replacement of s 12 (Geodetic reference framework)**

*Clause 52* replaces section 12 of the Survey and Mapping Infrastructure Regulation, which prescribes the geodetic reference framework and mapping projection that has been approved for Queensland. The geodetic reference framework, and the associated mapping projection prescribed here, is the framework adopted nationally by the Australian Government and being adopted by all Australian jurisdictions.

**Replaced section 12 (Geodetic reference framework - Act, s 6)**

The replaced section 12 of the Survey and Mapping Infrastructure Regulation will prescribe a new geodetic reference framework, to adopt the latest national standard for position under the *National Measurement Act 1960* (Cwlth) (National Measurement Act). The reference framework prescribed for latitude and longitude will be GDA2020, and for mapping projection, it will be MGA2020.

A potential breach of a fundamental legislative principle stems from use of the *National Measurement (Recognized-Value Standard of Measurement of Position) Determination 2017* (Cwlth) (GDA2020 determination) under the National Measurement Act for the definition of the datum standard under the Survey and Mapping Infrastructure Regulation, which could be seen as undermining the sovereignty of the Queensland Parliament. The breach is mitigated by limiting the standard for position information under the Survey and Mapping Infrastructure Act to the GDA2020 determination as it stands at the date replaced section 12 commenced. This is provided by using the reference “*the commencement*” without indicating a particular Act or provision in the definition of GDA2020, which under section 32F(2) of the *Acts Interpretation Act 1954* means the commencement refers to the commencement of the provision in which the reference occurs.

Should there be a change to the GDA2020 determination after the commencement of replaced section 12, it will not affect Queensland legislation. Queensland will need to amend the Survey and Mapping Infrastructure Regulation to adopt future changes to datum under the National Measurement Act.

**Part 14 Amendment of Transport Infrastructure Act 1994****Act amended**

*Clause 53* provides for the amendment of the *Transport Infrastructure Act 1994* (Transport Infrastructure Act). The objective of the Transport Infrastructure Act is to provide a regime that allows for and encourages effective integrated planning and efficient management of a system of transport infrastructure.

**Amendment of s 93AA (Application of s 93 to QML network)**

*Clause 54* amends section 93AA of the Transport Infrastructure Act, which allows the Minister to make a tolling declaration over the Queensland Motorways Limited (QML) Network. The section provides position information to describe administrative bounds of the Gateway Motorway Facility and the Logan Motorway Facility as parts of the QML network. This section also relates to a map of the QML network made by the chief executive. Section 93AA will be amended to clarify the datum (that is GDA94) used in Transport Infrastructure Act to identify the Gateway Motorway Facility and the Logan Motorway Facility. The amendment will ensure that the position descriptions that regulate activities at a specific position or within an administrative area are correctly referenced.