Land and Other Legislation Amendment Bill (No. 2) 2023

Explanatory Notes

Short title

The short title of the Bill is the Land and Other Legislation Amendment Bill (No. 2) 2023.

Policy objectives and the reasons for them

In Queensland, the *Land Act 1994* (Land Act) is the primary legislation for allocating and creating interests in state land, and for the management of that land. State land is important to Queensland, playing an instrumental role in supporting economic growth and community activities. Each parcel of land can be categorised under two broad tenure headings – freehold and non-freehold. Freehold land refers to land that is administered under the *Land Title Act 1994* (Land Title Act), with use regulated under the *Planning Act 2016* (Planning Act). Non-freehold land (state land) remains under the control of the State and is generally administered under the Land Act.

The policy objectives of the Land and Other Legislation Amendment Bill (No. 2) 2023 (the Bill) are to improve regulatory efficiency and ensure the administration of state land and the place naming framework remain contemporary and responsive to community needs.

The Bill provides a range of streamlining amendments that clarify policy intent and reduce administrative complexity.

Specifically, the Bill:

- amends the Land Act and Land Regulation 2020 (Land Regulation) to reduce administrative complexity and remove regulatory duplication. The Bill will reduce regulatory requirements to enable timely allocation of tenure. Additionally, the Bill amends the Land Act to proactively support the delivery of strategic government projects and ensure the appropriate tenure for land; and clarify policy intent and support contemporary decision making.
- amends the Land Title Act to reduce administrative burden and risk to the State by reducing the creation of unapproved unallocated State land.
- amends the *Place Names Act 1994* (Place Names Act) to provide clarification and broaden place naming considerations to reflect important contemporary issues. The Bill will reduce the regulatory burden associated with the naming of a place; and will make the decision-making process more inclusive, flexible, objective and transparent.
- amends the *Recreation Areas Management Act 2006* (RAM Act) to enable the renaming by regulation of a recreation area declared under the RAM Act. This amendment will enable recreation areas to be renamed in response to circumstances such as an official change in place name. For example, the recent change in the official name of Fraser Island to K'gari.
- amends the *Petroleum Act 1923* (1923 Act), *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act), *Geothermal Energy Act 2010* (GE Act), and the

Greenhouse Gas Storage Act 2009 (GGS Act) (referred to as the Resource Acts) to mandate the payment of applicable local government rates and charges as a condition of a resource authority. The amendments will also allow the Department of Resources to take prescribed non-compliance action against a resource authority holder in the event their rates and charges are unpaid, including using their security to repay unpaid rates and charges, and allowing the Minister to take non-payment of rates and charges into consideration when processing a renewal application.
- amends other legislation to make minor administrative and consequential changes.

Achievement of policy objectives

Land Act and Land Regulation amendments

The Bill achieves its objectives by amending the Land Act and the Land Regulation 2020 as follows:
- removing the requirement that the chief executive assess the 'most appropriate use' of the land. The contemporary and comprehensive nature of the planning framework established under the Planning Act results in the Land Act assessment being a duplicative and redundant process. This amendment will remove duplicative decision making and result in timelier allocation of tenure.
- enabling the Minister to dedicate a reserve for a purpose other than a community purpose, having regard to the community need and public interest.
- enabling the Minister to proactively offer to recommend to the Governor in Council that a trustee of an operational reserve be offered a deed of grant.
- removing the restriction preventing certain trustees of operational reserves from accessing a pathway to freehold conversion of the land.
- removing the restriction preventing the freeholding of only a part of an operational reserve.
- enabling a pathway to freehold conversion for non-Indigenous deeds of grant in trust.
- enabling the Governor in Council to grant non-Indigenous deeds of grant in trust as tenure in fee simple.
- extending mechanisms for trustees to approve additional uses of trust land to streamline administrative processes with a self-assessable framework being established to support effective decision-making.
- allowing unallocated State land to be granted to the State without requiring a public purpose assessment, enabling efficient allocation of state land for government projects.
- including amendments to provide that an additional purpose for a lease may only be approved if the rental category does not change.
- removing restrictions that prevent additional purposes being approved for term leases for pastoral purposes.
- providing that additional purposes cannot be approved for leases for grazing purposes on certain lands under the *Forestry Act 1959* and the *Nature Conservation Act 1992*.
- replacing the existing list of specific community purposes under the Land Act with six categories of community purposes.
- amending the definition of 'public interest' to clarify that public interest matters also include economic considerations.
- removing the requirement for an approved form in various provisions in the Land Act to provide consistency with current practices and support the overall intent for administratively efficient processes for managing land tenure.

- making other minor administrative and consequential amendments to other legislation.

Land Title Act amendments

The Bill achieves its objectives by amending the Land Title Act as follows:

- removing provisions that allows the creation of unallocated State land without consent.
- removing requirements for an approved form to provide consistency and clarity for common practice.

Place Names Act amendments

The Bill achieves its objectives by amending the Place Names Act as follows:

- refining the place naming issues to be considered when developing and deciding a place name proposal to suit current needs.
- providing clarity around what a place is; that changes to locality boundary are included in place naming; for entries in and amendments to the Gazetteer of place names; and the scope of the offence provision for using an unapproved name in trade and commerce.
- refining the issues to be considered when developing or deciding a place name proposal.
- enabling place names approved under previous Acts which no longer fall within the current definition of 'place' to be discontinued and removed from the Gazetteer for places.
- enabling the chief executive to develop and publish public consultation proposals and updating the chief executive's delegations.
- modernising the submission timeframes and methodology to increase efficiency, provide flexibility and ensure that the place naming process is inclusive.
- reducing the regulatory burden of undertaking inconsequential or duplicative consultation processes.
- enabling the prompt removal of place names that are offensive or harmful to a community or part of a community, supporting the proactive implementation of outcomes from other government initiatives and policies such as Path to Treaty.
- providing continuity and legal certainty that changing or discontinuing a place name does not affect any person's rights and obligations under other legislation or legal documents where a previous name is referenced.
- for a place name that is to be changed or discontinued, enabling communities and businesses to transition to a new place name by continuing the existing name as an approved name in addition to the new name over a period of up to five years, with the possibility of one extension of up to five years (e.g., if an abrupt name change would be difficult because of significant impacts on businesses or the community).
- enabling ministerial delegation under the Act to remove the reliance on the delegation provisions of the Land Act.

RAM Act amendments

The Bill achieves its objective by amending the RAM Act to insert a new provision to allow a name of a recreation area to be changed by regulation.

Resource Acts amendments

The Bill achieves its objectives by amending the Resource Acts to:

- insert new provisions in each Act to make the payment of applicable local government rates and charges a mandatory condition of a resource authority.
- amend provisions in each Act to allow the Minister to use the resource authorities' security payments to remedy unpaid local government rates and charges.
- amend provisions in each Act to allow the Minister to consider the non-payment of local government rates and charges during the renewal process for the resource authority.

Alternative ways of achieving policy objectives

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

Estimated cost for government implementation

Implementation of the proposed amendments will not present additional administrative or capital costs to government. Any implementation costs will be absorbed from existing resources.

Consistency with fundamental legislative principles

The Bill has been drafted with regard to fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992* and is generally consistent with these principles. Clauses of the Bill in which fundamental legislative principles issues arise or are perceived, together with the justification for any departure, are outlined below.

Land Act, Land Regulation and Land Title Act amendments

The amendments to the Land Act, Land Regulation and Land Title Act amendments in the Bill are consistent with fundamental legislative principles in the *Legislative Standards Act 1992*. However clauses 29, 37, 41 and 42 of the Bill engage with fundamental legislative principles and this is explained below.

Rights and liberties of individuals

Clauses 29, 37 and 41 – New sections 34L, 43D and 52AA (Recommending issue of deed of grant and approval of inconsistent actions)

Clause 29 (section 34L) and Clause 37 (section 43D) provide the Minister with the power to recommend that the Governor in Council issue a deed of grant to the trustee of an operational reserve or a non-Indigenous operational deed of grant in trust. Clause 41 (section 52AA) enables the Minister to approve a proposed action by a trustee that is inconsistent with the purpose of trust land, if satisfied that the action will not diminish the purpose or adversely affect the public interest.

Only a small proportion of all trustees of trust lands are individuals, with most trustees being the State or a statutory body. Where individuals are trustees, this is most likely because a government entity could not be found to accept the responsibility. This makes it unlikely that a request by a trustee to freehold operational trust lands would be declined.

Whilst the Bill does not provide an explicit process to review ministerial decisions under new sections 34L, 43D or 52AA, the *Judicial Review Act 1991* provides a mechanism for these decisions to be reviewed if required.

These amendments engage, but are consistent with, fundamental legislative principles and have sufficient regard to the rights and liberties of individuals.

Clauses 29 and 37 – Freeholding trust lands (reserves and non-Indigenous deeds of grant in trust (DOGITs))

Clauses 29 and 37 provide a streamlined processes for converting operational reserves and non-Indigenous deeds of grant in trust (DOGITs) allocated for operational purposes, to freehold. These clauses touch on but do not breach the fundamental legislative principle of having sufficient regard to the rights and liberties of individuals, having sufficient regard to Aboriginal tradition and Island custom (section 4(3)(j) of the *Legislative Standards Act 1992*).

The amendments are intended to ensure effective management of the land, and the public infrastructure assets located on them, and to reduce administrative burden on the State in maintaining oversight. Tenure allocation is a fundamental function of the Land Act, and it always has the potential to interact with and this fundamental legislative principle, but this is managed through the appropriate legislative checks and balances, which are listed below.

The amendments provide a process for initiating freehold conversion but freehold tenure itself is not guaranteed. Tenure conversion will be considered on a case-by-case basis and will require a most appropriate tenure evaluation under section 16 of the Land Act, which includes having regard to the objects of the Act. The objects of the Act provide that land must be managed with consideration and balancing of the cultural values of the land.

Further, in deciding to dedicate or grant land, or to convert trust land to freehold, the decision maker must give proper consideration to human rights, including identifying relevant cultural rights under section 28 of the *Human Rights Act 2019* that may be affected. If a proposed action would limit cultural rights, the limit must be reasonably and demonstrably justified pursuant to section 13 of the *Human Rights Act 2019.*

Finally, section 28 of the Land Act provides that any action taken under the Land Act must not be inconsistent with the *Native Title Act 1993* (Cwlth) and *Native Title (Queensland) Act 1993*, this includes tenure allocation. To the extent that native title rights may be impacted, negotiations between the parties involved would be required to address native title, before an action could be taken.

Clause 51, 69 and 71 – Amendment of section 154, replacement of section 477 and insertion of new ch 9, pt 8, div 5 (Provisions relating former section 154)

The Bill removes the ability of certain leaseholders to apply under section 154 of the Land Act for ministerial approval that purposes be added or removed from their leases. This applies to leases for grazing purposes over land that is contained within State forests and timber reserves under the *Forestry Act 1959*, and certain tenures under the *Nature Conservation Act 1992*. The new provisions (new sections 579, 580 and 581), which provide for arrangements for the

application of former section 154, will apply prospectively. These transitional provisions are intended to prevent applications being made between 15 November 2023 and commencement of the Bill, and as such, do not affect existing applications but rather applications that may be made in the future (on or after 15 November 2023). If a lessee makes an application during this time, they will be aware that, on the commencement of the transitional provisions, their application and any approval given for the application will lapse. Therefore, it is not considered that individual rights are being adversely affected. For all other types of leases, the unamended Act will continue to apply. The amendments are considered to be consistent with fundamental legislative principles.

The institution of Parliament

Clause 41 and 42 – New section 52AB and amendment of section 57 (trustee actions and leases)

The amendments will provide the trustees that are the State or statutory bodies (and other trustees with written authority from the Minister) with expanded powers to use trust lands without further recourse to the Minister. Although trust lands are dedicated by the Minister for a specific purpose, these expanded powers will enable trustees to undertake actions and grant leases for purposes that are inconsistent with the dedicated purpose of the trust land. Trust lands are owned by the State, and most trustees are government entities, however some trustees are individuals or incorporated bodies.

To ensure that there is sufficient regard to the institution of Parliament, the Bill requires trustees to support decisions involving inconsistent actions and leases by preparing a management plan that states how the action or lease will not diminish the purpose for which the trust land was dedicated or adversely affect the public interest. The Bill further requires that trustees comply with these management plans.

The Land Act enables the chief executive to require trustees to provide the records of the trust for inspection, and also enables the Minister to remove a trustee from office if they have breached the conditions of the Act.

By providing a statutory framework within which trustees must operate, and retaining oversight through these accountability mechanisms, sufficient regard is had to the institution of Parliament.

These amendments engage, but are consistent with, fundamental legislative principles and have sufficient regard to the institution of Parliament.

Place Names Act amendments

The following amendments potentially depart from the fundamental legislative principle that legislation have sufficient regard to an individual's rights and liberties, and the institution of Parliament, under section 4(2) of the *Legislative Standards Act 1992*. However, the potential departures from the fundamental legislative principle are considered justified.

Rights and liberties of individuals

Clause 115—Amendment of s 9 (Notice of place name proposal)

Currently, Queensland legislation stipulates a minimum period of two months to consult on a place naming proposal. This is the longest minimum consultation period of any of Australia's states and territories place name processes (others are generally set at either one month or 30 days).

Section 9(4) reduces the day specified in the notice down to at least one month after the day the notice is published in the gazette, bringing Queensland in line with other Australian jurisdictions. The reduced minimum consultation period may be seen to restrict community participation in place naming.

However, the amendment considers the benefits of modern technology in communication and ease of access to information. The notice provision does not preclude a longer consultation period from being stated (e.g., for a place naming proposal that is complex, sensitive or likely to generate significant community interest) or a consultation period being extended to give interested parties more time to make a considered submission. In addition, the provision removes the current restriction that submissions must be in writing thus increasing the opportunity for community participation in place naming.

Clause 116—Replacement of s 10 (Dispensing with publication of proposal)

New section 10 broadens the circumstances in which publication of a proposal is not required. This may be seen to give the chief executive a unilateral power to decide when not to publish a proposal, potentially limiting the rights and liberties of interested parties to contribute to place naming. This potential breach is mitigated by limiting the exercise of this power to the following reasonable and justifiable circumstances:

a) For minor or technical matters. These are typically minor adjustments to locality boundaries or coordinates; and correcting typographical errors, inaccuracies, or omissions.

b) To remove or change a place name which is distressing to a community or part of the community including, for example, a community or group of Aboriginal people or Torres Strait Islander people, having regard to the historical or cultural significance of the approved name; or the name is derogatory, racist or sexist. Such names are generally offensive or cause harm. The ability to promptly remove such names minimises the hurt to the community or part of the community.

c) If the proposal is not likely to be of substantial interest to the community or any particular part of the community. Considerations include whether the place is in a remote or sparsely populated area; the public interest or the interest of a part of the community, for example, a community or group of Aboriginal people or Torres Strait Islander people; the proposal is unlikely to have significant socio-economic effects.

d) If the proposal has already been subject to adequate consultation under a separate process or further public consultation is likely to cause substantial distress to the community or part of the community, including, for example, a community or group of Aboriginal people or Torres Strait Islander people. Processes include public

consultation on place name proposals led by other naming authorities or outcomes of Path to Treaty.

This approach reduces the need to undertake inconsequential or duplicative consultation processes, or consultation on offensive names that may cause further harm to a community or part of a community.

Despite these exemptions, the chief executive is not prevented from publishing the proposal where it is appropriate as section 10(2) does not prevent publication. As an additional safeguard, where a proposal was not published, the Minister is able to require publication of the proposal for any reason under new section 10B before making a decision.

The institution of Parliament

Clause 114—Replacement of s 8 (Development of place name proposal)

Clause 114 has the effect of transferring the Minister's power to develop and publish a place name proposal to the chief executive. The delegation of responsibility for developing and publishing a place name proposal from the Minister to the chief executive may be considered inconsistent with the fundamental legislative principle regarding appropriate delegation of power.

This amendment decentralises the place naming powers of making, publishing, and deciding a proposal based on the principles of good governance and separation of powers. It removes the risk of apprehension or suspicion of a lack of impartiality, accountability, and transparency in naming a place, particularly where a name change may be controversial.

Making place names decisions more objective and transparent is important because the Place Names Act makes no provisions for appeals as a place naming proposal is not subject to an application. The State Policy explicitly states that the action of making a place name suggestion does not confer rights to any form of review or appeal. Therefore, there is no recourse or review of a place name decision other than perhaps judicial review under the *Judicial Review Act 1991*. Natural justice is afforded through the consultation process.

Considering the largely administrative nature of the process of developing and publishing a proposal, transfer of these powers and functions to the chief executive is considered appropriate.

Clause 124—Insertion of new s 18A (Rights or obligations not affected)/Clause 127 Insertion of new pt 5 (23 Application of s 18A)

New section 18A provides that a name change or discontinuation of a name has no effect on rights and obligations of persons affected by the decision.

During the process of renaming Fraser Island to K'gari, concerns were identified around the potential for a change to a place name to impact on the validity of provisions in other legislation and other documents where a place name is referenced.

New section 18A applies both retrospectively and prospectively as part of the transitional arrangements by virtue of new section 23 (Clause 127). This will provide clarity and absolute certainty that any place name changes will not impact on the rights and obligations of persons, including (as examples)—

a) the naming of the Court buildings, and the location of Court districts, for example, in the Justices Regulations 2014, Schedule 1

b) references to places on the electoral districts map under an electoral redistribution

c) updating of databases for addresses of persons, including arrangements for service, where an address includes a place that has been subject to a place name change

d) criminal charges in relation to the location of an offence where that location may change, or the boundary of that location may change, as a result of a change of place name, which may impact on the appropriate court jurisdiction

e) existing private and commercial contracts which reference a former or discontinued name

f) references to a previous name in search warrants, orders to restrict or notify due to a court order (e.g., domestic violence court orders).

A fundamental legislative principle follows the presumption at common law that, unless the contrary intention appears, Parliament intends legislation to operate prospectively and not retrospectively.

The express provision of retrospectivity in relation to the effects of a past place name change is justifiable and not objectionable because—

a) A name change under the Place Names Act is not intended to change any rights and obligations under other laws such as in the case of K'gari and the other examples listed above.

b) Jointly, new sections 18A and 23 provide continuity, minimise disruptions, and offer predictability and legal certainty to all parties affected by a name change or discontinuation of a name at any time.

In effect, these provisions will ensure that documents that reference an approved name (e.g., penalty infringement notices, court documents, search warrants, criminal charges, private and commercial contracts, leases, references to places on the electoral districts map under an electoral redistribution) are not rendered invalid through a name change.

Clause 125—Insertion of new s 19A (Delegation by Minister)

Clause 125 inserts new section 19A to authorise the Minister to delegate place naming decision powers and functions to another Minister. This provision may be inconsistent with the fundamental legislative principle regarding appropriate delegation of power.

Delegating the Minister's powers as proposed, and not legislating the scope and limits of the delegated authority, may be seen:

a) as an abdication of the Minister's responsibility to make important policy decisions.

b) to lead to uncertainty and potentially arbitrary decision-making by the delegate contrary to the rule of law, affecting the rights and obligations of those affected by changes to the name of a place.

c) to lead to policy shifts over time.

However, this approach considers among other things the varied agencies with place naming functions; the differences in their portfolio responsibilities, expertise and capacity; and the variable complexities of place naming proposals. It is therefore reasonable and justifiable that the Place Names Act allows flexibility in the way the Minister's functions and powers may be delegated, including for which type of place.

Consistent with the provisions of the *Acts Interpretation Act 1954*, oversight and control can be achieved by imposing tailored conditions on the delegations. In addition, delegations can be reviewed to evaluate their effectiveness and relevance; identify and address any unintended outcomes; and enable necessary updates to respond to changing circumstances, or to inform adjustments to legislation. Delegates would be expected to recognise and address breaches of fundamental legislative principles in addition to ensuring that their decisions are consistent with the requirements of the Place Names Act and the State Policy.

Clause 126—Replacement of s 20 (Delegation by chief executive)

Due to the transfer of powers to the chief executive for developing and publishing a place name proposal, the chief executive's current delegation powers have been adjusted to enable delegation to the chief executive of another department, the chief executive officer of a local government, or an appropriately qualified public service officer. This amendment considers the role of other government agencies and authorities in place naming.

Delegation of the chief executive's powers to the chief executive officer of a local government may be seen to circumvent the traditional means of accountability usually applicable to the public sector. However, local governments are themselves place naming authorities and they conduct extensive consultations before their naming proposals are considered under the Place Names Act. It is likely that delegations under the Place Names Act would be subject to conditions imposed on a delegation based on the prospective delegate's role in place naming and specific circumstances. For example, the development of naming proposals for new suburbs.

This approach recognises that while local governments are permitted a degree of autonomy in their deliberations, they are expected to recognise and address breaches of fundamental legislative principles, and they would be expected to consult with the Department of Resources and comply with the requirements of the Place Names Act and State Policy.

RAM Act amendments

The amendments to the RAM Act are minor and machinery in nature and are consistent with fundamental legislative principles.

Resource Acts amendments

Rights and liberties of individuals

Under section 4(2) of the *Legislative Standards Act 1992*, legislation should have sufficient regard to an individual's rights and liberties. The rights and liberties of individuals were considered in relation to the amendments to assist local governments recover rates and charges from resource authority holders through the discussions below regarding the fundamental legislative principles of retrospectivity and natural justice. As the amendments provide additional mechanisms to enforce existing obligations under the *Local Government Act 2009*, the amendments are not considered to further impinge on individual rights and liberties.

Retrospectivity

The amendments to the Resource Acts potentially depart from the principle that legislation operates prospectively rather than retrospectively under section 4(3)(g) of the *Legislative Standards Act 1992*. However, the potential breaches are justified for reasons detailed below.

Clause 4—Insertion of new s 126A

New section 126A of the GE Act mandates the payment of applicable local government rates and charges as a condition of holding the geothermal lease (resource authority).

During consultation it became apparent that the instances of significant non-payment of rates and charges by resource authority holders would not be able to be addressed if the provision only applied prospectively. Therefore, as the amendments to the Resource Acts are intended to apply to existing and future resource authorities, new section 126A is included in the general mandatory conditions for geothermal tenures so that they can apply both retrospectively and prospectively.

A fundamental legislative principle follows the presumption at common law that, unless the contrary intention appears expressly or impliedly, Parliament intends legislation to operate prospectively and not retrospectively. Section 20 of the GE Act provides an express provision of retrospectivity in relation to conditions of geothermal tenure and is justifiable because:

a) the legislation enables conditions to be changed from time to time;

b) the amendments will not increase the regulatory burden as these requirements already exist under local government legislation; and

c) the amendments will not impact resource authority holders where they are complying with their legislative obligations to pay rates and charges.

New section 126A of the GE Act will incentivise compliance by resource authority holders and allow the department to support local governments and their communities in situations where local government rates and charges are going unpaid.

Clause 8—Insertion of new ch 9, pt 8

Clause 8 inserts a transitional provision, section 417, into the GE Act to enable amended section 294 to apply to applications made but not decided before commencement of the provisions. Amendments to section 294 enable the Minister for Resources to require the applicant to pay any applicable local government rates and charges, including any applicable interest on

overdue rates and charges, as a condition of deciding to grant a renewal application for a geothermal lease (resource authority).

As discussed in 'Clause 4 — Insertion of new s 126A' above, instances of significant non-payment of rates and charges by resource authority holders would not be able to be addressed if the provision only applied prospectively. Therefore, a transitional provision has been included to enable the condition to apply to applications made but not decided before commencement of the section.

This retrospectivity is justified for the same reasons as 'Clause 4 — Insertion of new s 126A'.

Clause 10—Insertion of new s 169A

New section 169A of the GGS Act mandates the payment of applicable local government rates and charges as a condition of holding the GHG lease (resource authority).

As discussed in 'Clause 4 — Insertion of new s 126A' above, instances of significant non-payment of rates and charges by resource authority holders would not be able to be addressed if the provision only applied prospectively. Therefore, as the amendments to the Resource Acts are intended to apply to existing and future resource authorities, new section 169A is included in the key mandatory conditions for GHG leases so that they can apply both retrospectively and prospectively.
This retrospectivity is justified for the same reasons as 'Clause 4 — Insertion of new s 126A'.

Clause 99—Amendment of s 47 (Reservations, conditions and covenants of lease)

Clause 99 amends section 47 of the 1923 Act to mandate the payment of applicable local government rates and charges as a covenant of holding the petroleum tenure (resource authority).

As discussed in 'Clause 4 — Insertion of new s 126A' above, instances of significant non-payment of rates and charges by resource authority holders would not be able to be addressed if the provision only applied prospectively. Therefore, as the amendments to the Resource Acts are intended to apply to existing and future resource authorities, amended section 47 is included in the covenants of a petroleum tenure so that they can apply both retrospectively and prospectively.

This retrospectivity is justified for the same reasons as 'Clause 4 — Insertion of new s 126A'.

Clause 102—Insertion of new s 156A

New section 156A of the P&G Act mandates the payment of applicable local government rates and charges to as a condition of the petroleum lease (resource authority).

As discussed in 'Clause 4 — Insertion of new s 126A' above, instances of significant non-payment of rates and charges by resource authority holders would not be able to be addressed if the provision only applied prospectively. Therefore, as the amendments to the Resource Acts are intended to apply to existing and future resource authorities, new section 156A is included in the key mandatory conditions of a petroleum lease so that they can apply both retrospectively and prospectively.

This retrospectivity is justified for the same reasons as 'Clause 4 — Insertion of new s 126A'.

Clause 108—Insertion of new ch 15, pt 31

Clause 108 inserts transitional provisions into the P&G Act, to enable amended sections 164, 170A and 171 to apply to applications made but not decided before commencement of the provisions. Amendments to sections 164, 170A and 171 allow the Minister for Resources to require the applicant to pay any applicable local government rates and charges, including interest on overdue rates and charges, as a condition of deciding to grant an application for a renewal, amalgamation, or division of a petroleum lease (resource authority).

As discussed in 'Clause 4 — Insertion of new s 126A' above, instances of significant non-payment of rates and charges by resource authority holders would not be able to be addressed if the provision only applied prospectively. Therefore, transitional provisions have been included to enable the conditions to apply to applications made but not decided before commencement of the amended sections.

This retrospectivity is justified for the same reasons as 'Clause 4 — Insertion of new s 126A'.

Consistency with natural justice

Legislation should be consistent with the common law principles of natural justice under section 4(3)(b) of the *Legislative Standards Act 1992***.** The fundamental legislative principle of natural justice is divided into three components. They are:

- the right to be heard;
- procedural fairness; and
- unbiased decision makers.

Any potential breaches of the three principles of natural justice within the Resource Acts amendments are considered individually below.

The right to be heard

The right to be heard component requires that legislation should not immediately suspend a person's licence or other authority without receiving and considering submissions from the person, even if the suspension is subject to subsequent review and appeal processes.

Although the Resource Acts provide for review and appeal processes, common law states that this is not adequate in affirming the right to be heard as a principle of natural justice and legislation must provide for additional means by which the person who has had a licence or authority suspended to make submissions and have those submissions considered.

Under current practices, when undertaking compliance action under the Resource Acts, the process begins by conducting a thorough review of the complaint and any evidence. After the initial review a variety of compliance tools can be utilised, dependant on the action required. During the compliance process, an opportunity will be provided to the resource authority holder to respond to the issues raised in the review, as well as information detailing the criteria for how the review was conducted, next steps, and a timeframe for response.

This process sits outside of the legislated review and appeal process as an additional means by which resource authority holders may make submissions about decisions made against them

that will be genuinely considered. As a result, the amendments included in the Resource Acts amendments do not breach this component of the natural justice principle.

Procedural fairness

The procedural fairness component of natural justice is a flexible obligation to adopt fair procedures that are appropriate and adapted to the circumstances of the case. Additionally, procedural fairness requires that the fair procedures be reliable and precisely clear how natural justice will be afforded.

A comprehensive and adaptable compliance framework exists under the Resource Acts, which ensures a consistent approach to compliance processes across the State, regardless of resource authority holder or the commodity.

As part of any compliance process, notification is formally given to the relevant resource authority holder of the review and provides them with an opportunity to respond.
Therefore, as the resource authority holder is subject to a consistent and adaptable compliance framework and are given opportunities to respond to any adverse decision, this component of the natural justice principle is not breached.

The right to an unbiased decision maker

The final component of the fundamental legislative principle of natural justice requires that a decision subject to the rules of natural justice must be made by a person who is not actually or ostensibly biased to ensure correct, accurate and reliable decision-making.

The test, at common law, is whether the relevant circumstances surrounding a decision would give rise, in the mind of a party or a fair-minded and informed member of the public, to a reasonable apprehension or suspicion of a lack of impartiality.

The Scrutiny of Legislation Committee established under the *Parliament of Queensland Act 2001* has considered that a person given a function, in legislation, to decide on an application must be perceived to be unbiased. Additionally, the principle also requires that the reviewer of a decision be separate from the original decision-maker.

As any compliance action undertaken against a noncompliant resource authority is actioned by an officer given a decision-making power under the legislation and appeals of decisions are considered judicially, the amendments do not breach this component of the natural justice principle.

Consultation

Land Act, Land Title Act and Land Regulation amendments

Queensland Government consultation

Relevant State Government agencies have been consulted during the development of the Bill and support the proposed amendments.

Community and stakeholder consultation

The Department of Resources consulted with a targeted group of relevant stakeholders in relation to the components of the Bill that amend the Land Act and the Land Title Act. This group included non-government trustees responsible for the highest number of operational reserves and operational non-Indigenous deeds of grant in trust. The following entities were consulted:

- Local Government Association of Queensland
- AgForce Queensland
- Queensland Farmers' Federation
- Queensland Law Society
- Ergon Energy Corp Ltd
- Property Council of Australia
- Urban Development Institute Australia
- Port of Townsville Ltd
- QLD Rail Ltd
- Returned and Services League (RSL) Queensland Branch
- Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd
- Uniting Church in Australia Property Trust.

All feedback received was generally supportive, particularly in relation to the greater flexibility for trustees of State land to responsively and adaptively use trust land and convert trust land to freehold tenure where approved. There was also support for the likely decrease in administrative and procedural delays with certain land dealings.

The amendments providing that additional purposes cannot be approved for leases for grazing purposes on certain lands under the *Forestry Act 1959* and the *Nature Conservation Act 1992* have not been consulted on with stakeholders.

Place Names Act amendments

Key government agencies and stakeholders with place naming responsibilities were consulted and were supportive of the proposed amendments.

RAM Act amendments

The Department of Environment and Science has consulted with the Butchulla Aboriginal Corporation, who support actions being taken to align the name of the Fraser Island Recreation Area with the new official name for the Island, that being K'gari.

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation (OBPR) was notified in relation to the proposal to amend the RAM Act. OBPR noted the proposal as minor and machinery in nature with no new impacts on business, government, or the community.

Resource Acts amendments

The Department of Resources has consulted with relevant stakeholders, including affected local governments, and representative resource and industry bodies in relation to the

amendments to the Resource Acts relating to the payment of local government rates and charges. This group included:

- Local Government Association of Queensland
- South West Queensland Regional Organisation of Councils
- Queensland Resources Council
- Australian Energy Producers
- Association of Mining and Exploration Companies

On 27 September 2023, the Department of Resources released a consultation paper for public comment on proposed amendments to the resources regulatory framework, including the introduction of the payment of local government rates and charges as a consistent mandatory condition across the Resource Acts.

Feedback on the Resource Acts amendments indicated broad support, particularly from the local government sector, which reiterated the urgency and importance of these amendments to ensure resource authority holders foster social licence in the regional communities in which they operate.

In accordance with the Queensland Guide to Better Regulation, OBPR was consulted on the amendments. OBPR noted that the amendments to the Resource Acts to mandate the payment of local government rates and charges as a condition of a resource authority, did not require a Regulatory Impact Statement (RIS) process as the amendments did not increase the regulatory burden on business or the community as the requirements already exist under local government legislation.

Consistency with legislation of other jurisdictions

Land Act, Land Title Act and Land Regulation amendments

The Bill is specific to the State of Queensland, and is not uniform with, or complementary to, legislation of the Commonwealth or another state. The amendments in the Bill do not impact on other jurisdictions or the Commonwealth and are not affected by any Commonwealth or state legislation.

Place Names Act amendments

Place naming legislation

Although the specific details vary, numerous jurisdictions (including Australian states and territories and New Zealand) have a legislated place naming framework.

Relevant state government departments in Australia and New Zealand have in common the role of:

a) assigning, changing, discontinuing, or approving names for places specified in their respective legislation, as well as conducting public consultation on naming proposals; and
b) managing a register/database of place names within their jurisdiction and making it accessible to the public.

Decision-maker

The Minister is the decision-maker for place naming in Queensland, New South Wales, South Australia, Tasmania, Northern Territory, and Australian Capital Territory.

However, in Tasmania, the Registrar is empowered to make minor place name decisions; and in South Australia, there are certain places that the Minister cannot name without the Surveyor-General's approval (e.g., schools, hospitals, and colleges).

In Victoria, the Registrar is responsible for place naming but, under their Naming Rules 2022, the Minister can overturn decisions made by a naming authority (e.g., councils, government departments and other authorities, and some private organisations), the Registrar, or Geographic Place Names Advisory Committee. In addition, the Minister may direct the Registrar to enter a name in the Register of Geographic Names (VICNAMES).

Australian jurisdictions, other than Victoria and Australian Capital Territory, allow ministers to delegate their powers and functions as follows:

a) Queensland—In the absence of Ministerial delegation powers under the Place Names Act, the Minister's place naming powers and functions are delegated under the Land Act. The Land Act allows delegation of the Minister's powers under this Act or another Act administered by the Minister to another Minister, the chief executive or the chief executive of another department, or an appropriately qualified public service employee under the Land Act.

b) New South Wales—to the secretary or another person in the department.

c) Northern Territory—to the chairperson of the committee or Surveyor-General.

d) South Australia—to the Surveyor-General.

e) Western Australia—responsibility for place naming decisions is delegated to Landgate.

Queensland currently allows the chief executive to delegate their powers to an officer of the public service under the Place Names Act, while New South Wales allows the Board to delegate to its chairperson or the Surveyor-General.

In contrast, New Zealand's Geographic Board has complete power to make naming decisions and can delegate any of its powers and functions to a member of the Board, the Secretary of the Board, an employee of the department, or a committee.

Each government in Canadian jurisdictions have different roles. However, the Geographical Names Board of Canada established in the Order of Council has the role of developing principles, procedures, and guidelines for naming in Canada, providing advice to appropriate authorities on programs and resources for investigation into geographical names, and officially approving naming decisions made by each jurisdiction's naming authorities.

Place naming considerations

Queensland and Australian Capital Territory provide issues which may be considered when naming places in their respective place names Acts.

South Australia, New South Wales and New Zealand stipulate criteria for the selection of names. However, these criteria are similar to principles, guidelines, or rules stated in other jurisdictions.

In Victoria and Western Australia, the decision-making criteria for a naming proposal are their conformity to the relevant naming policies and principles.

Although Northern Territory does not specify decision-making criteria or issues to consider, guidelines for naming are provided.

Public consultation

In Queensland, Tasmania, Victoria, New South Wales, South Australia, Australian Capital Territory, Western Australia and New Zealand, public consultation is an important element of the place naming process and is required for each proposal. Queensland also includes 'community views' in its Place Names Act as a naming issue to consider. This suggests that the views of the general public are important to these jurisdictions as they factor public feedback into naming processes and decisions. However, Queensland's Act also stipulates decision-making criteria for dispensing with the publication of a proposal in very limited circumstances—based on the nature of the proposal and the likelihood that the proposal would generate no community interest, or no significant community interest, if it were published.

The concept of 'public interest' is also seen in many principles and policies. The idea that place names should be enduring and should only be changed if it aligns with the public interest, is expressed in Tasmania, Victoria, South Australia, New South Wales, Western Australia, and New Zealand. Queensland requires that the public good likely to be derived from a place name proposal be considered. Canada specifies that personal names should not be given to places unless in the public interest. In contrast, Northern Territory does not place strong emphasis on the general public or public interest within their legislation.

<u>Consultation timeframes</u>

Queensland legislation stipulates a minimum period of two months to consult on a place naming proposal. This is the longest minimum consultation period of any of Australia's states and territories place name processes (others are generally set at either one month or 30 days).

<u>Outcomes from other processes</u>

Some jurisdictions allow naming authorities to consider outcomes of other government or non-government processes when naming a place:

a) Victoria—Legislation permits the naming process to be reduced by naming authorities drawing names from a bank of pre-approved names, which councils often have. The state naming authority can thus use names collated by local councils when naming places.

b) New South Wales—The Board can decide to make a name the approved name for a place if it appears in more than one map, publication, or database if these are published or maintained by a government agency or another body, have been publicly available for a minimum of three years and they meet cartographic and geospatial standards. Also, when considering naming proposals submitted by local councils, the Board must consider the evidence of community feedback and the council resolution which accompanies the proposal.

c) South Australia—The Minister can approve a recorded name as the official geographic name for a place if there is common usage of the name without going through a formal process to approve the commonly used name.

d) Tasmania, Queensland, Australian Capital Territory and Western Australia—The respective legislation of these jurisdictions is silent on this issue.

e) New Zealand—The Board is able to adopt as official geographic names the existing names of undersea features within the Board's jurisdiction that are published on official maps or charts.

f) Canada—For place names on Canadian First Nations Reserves, the First Nations community and provincial naming authority are encouraged to work together on researching and evaluating proposals, and both parties must approve the proposal. Therefore, the provincial naming authority can consider the work produced by the community and their approval/rejection of the proposal when making their decision. Also, names which are different to established local use and are used by public and private institutions such as railway companies, can be approved by the relevant naming authority for use on maps and in databases.

Appeals

Victoria is the only Australian jurisdiction to give appeal rights to place naming decisions. In their naming rules, people who have objected to a place naming proposal are given the power to appeal the decision on that proposal once it is made. This right is limited in that to appeal the decision, they need to demonstrate that the naming authority did not consider the objections during the deliberations and the proposal does not reasonably conform to the naming rules. Petitions are accepted when appealing a decision. This process is an internal one within the authority of the place names staff in Victoria.

In Queensland, there are no appeal rights under the Place Names Act. State policy explicitly states that the action of making a place name suggestion does not confer rights to any form of review or appeal. Legislation in Tasmania, Western Australia, and New Zealand do not mention appeal rights but discuss avenues for the public to make objections to naming proposals. In Western Australia, these objections must be considered by the local government and be included in an assessment report, stating the objection and the council's consideration of it. Legislation in New South Wales, Northern Territory, South Australia, Australian Capital Territory and Canada is silent on appeal rights.

First Nations place names

All states and territories in Australia deal in some way with First Nations place names, with recognition of First Nations languages through place names encouraged in Victoria, Tasmania, and Western Australia.

New Zealand's engagement with traditional Indigenous names is more pronounced, including government partnering with organisations and Māori people to record the stories about place names.

Canada is also fairly advanced in this area and has an interactive map of Indigenous place names across Canada titled *Stories from The Land: Indigenous Place Names*.

Offensive or harmful names

Other than in South Australia, legislation or policy in Australian jurisdictions mention (or define) discriminatory, offensive, or harmful names:

a) Victoria and Tasmania—discriminatory or derogatory names, or names likely to cause offence are labelled as being inappropriate or not allowed.

b) Queensland, New South Wales, Northern Territory, Australian Capital Territory and Western Australia—discriminatory and similar names are described as names perceived to be offensive, demeaning, or harmful to the reputation of individuals, or to social, ethnic, religious, or other groups. New South Wales, Australian Capital Territory, and Western Australia recognise that the perception of what is considered discriminatory or derogatory can change across time and place. These types of names are described in these jurisdictions as unacceptable.

In Tasmania, it is briefly stated that a place name found to be offensive to sectors of the community will be discontinued but does not provide a procedure for this to occur. Similarly in Queensland, there is no distinct process outlined, however it is assumed that the basic process of suggesting name changes to the naming authority would be the avenue to change a discriminatory or derogatory name as occurs in other jurisdictions.

In Victoria, New South Wales, Northern Territory, Australian Capital Territory, Western Australia, and Canada, people are advised to make a request to change a name they deem to be discriminatory or derogatory to their relevant naming authority. Upon request, the naming authority will investigate the status of the proposed offensive name by considering all relevant factors and the justification provided by the requestor. In the Northern Territory, it is mentioned that if removed as the official name, a discriminatory name will not be removed from the register due to it being historical information.

In New Zealand and Canada (Alberta), discriminatory or derogatory names, or names likely to cause offence are also labelled as being inappropriate or not allowed. However, a way to deal with offensive names was not found in New Zealand's place names legislation. More broadly, Canada's national naming principles define discriminatory and similar names as names perceived to be offensive, demeaning, or harmful to the reputation of individuals, or to social, ethnic, religious, or other groups.

Effect of place name changes on rights or obligations

Specific provisions in the following jurisdictions provide certainty on the effects of place name changes:

a) New South Wales—The *Geographical Names Act 1966* provides that the alteration or discontinuance of a place name has no effect on the rights and obligations of any person or render defective any legal proceedings. Legal proceedings may be continued or commenced under the altered or discontinued name.

b) South Australia—The *Geographical Names Act 1991* provides that nothing in the Act and nothing done pursuant to the Act affects the operation or validity of any instrument or agreement that creates or imposes any rights or liabilities. Also, nothing in the Act imposes any obligation on or otherwise affects or applies to the Registrar-General.

c) New Zealand—Savings provisions in the *New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008* provide that if the Board exercises any of its functions in relation to the naming of a geographic feature, the rights and obligations of a local authority in respect of the geographic feature are not affected. Legal proceedings are also not invalidated solely because of the exercise of the function and may be continued or commenced under the official geographic name approved, assigned, or altered under the Act.

Legislation in other Australian jurisdictions and Canada are silent on this issue.

RAM Act amendments

The amendment to the RAM Act is specific to the State of Queensland and is not uniform with, or complementary to, legislation of the Commonwealth or another state. The amendments do not impact on other jurisdictions or the Commonwealth and are not affected by any Commonwealth or state legislation.

Resource Acts amendments

The amendments to the Resource Acts are specific to the State of Queensland and is not uniform with, or complementary to, legislation of the Commonwealth or another state. The amendments do not impact on other jurisdictions or the Commonwealth and are not affected by any Commonwealth or state legislation.

Notes on provisions

Part 1 Preliminary

Short title

Clause 1 states that, when enacted, the Bill will be cited as the *Land and Other Legislation Amendment Act (No. 2) 2023*.

Commencement

Clause 2 states that part 6, division 3 and schedule 1, part 2 of the Bill commence on a day to be fixed by proclamation. All other provisions will commence on assent.

Part 2 Amendment of Geothermal Energy Act 2010

Act amended

Clause 3 states that this part amends the *Geothermal Energy Act 2010* (GE Act).

Insertion of new s 126A

126A Local government rates and charges

Clause 4 inserts a new section 126A to mandate the payment of applicable local government rates and charges as a condition of holding the geothermal lease (resource authority).

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance from geothermal resource authority holders. The Queensland Government expects resource authority holders to pay their local government rates and charges to foster social license and provide benefits to the communities and regions in which they operate. The introduction of a mandatory condition for the payment of local government rates and charges enables noncompliance action to be taken under the GE Act if applicable local government rates and charges go unpaid.

The payment of local government rates and charges is currently only a mandatory condition under the *Mineral Resources Act 1989*, and Clause 4 will ensure the intent of these provisions are replicated in the GE Act for more consistent compliance action and regulation across the Resource Acts.

Amendment of s 203 (Operation and purpose of pt 4)

Clause 5 amends section 203 to enable the security given to the State for a geothermal lease (resource authority) to be used to pay any applicable unpaid local government rates and charges, including any interest on overdue rates and charges.

The purpose of this amendment is to support local governments in recovering unpaid rates and charges by enabling money held by the State as security against the resource authority, to be used to pay the local government the unpaid rates and charges for the resource authority.

Clause 5 also amends section 203 to renumber the section.

Amendment of s 290 (General conditions for renewal application)

Clause 6 amends section 290 to require a geothermal lease (resource authority) holder to pay any applicable local government rates and charges, including any interest on overdue rates and charges, before being able to make an application to renew the resource authority.

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance by resource authority holders as part of the renewal process for a resource authority and ensure more consistent regulation across the Resource Acts.

Clause 6 also amends section 290 to renumber the section.

Amendment of s 294 (Deciding application)

Clause 7 amends section 294 to enable the Minister for Resources to require the applicant pay any applicable local government rates and charges, including any applicable interest on overdue rates and charges, as a condition of deciding to grant a renewal application for a geothermal lease (resource authority).

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance by resource authority holders as part of the renewal process for a resource authority and ensure more consistent regulation across the Resource Acts.

Clause 7 also amends section 294 to renumber the section.

Insertion of new ch 9, pt 8

Part 8 Transitional provision for Land and Other Legislation Amendment Act (No. 2) 2023

Clause 8 inserts new part 8 dealing with a transitional provision for the *Land and Other Legislation Amendment Act (No. 2) 2023* as it relates to the GE Act and includes new section 417.

417 Undecided applications for the renewal of geothermal leases

New section 417 provides a transitional arrangement to enable amended section 294 to apply to an application for renewal of a geothermal lease that was made, but not decided before commencement of the provision.

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance by resource authority holders as part of the renewal process for a resource authority and ensure more consistent regulation across the Resource Acts.

Part 3 Amendment of Greenhouse Gas Storage Act 2009

Act amended

Clause 9 states that this part amends the *Greenhouse Gas Storage Act 2009* (GGS Act).

Insertion of new s 169A

169A Local government rates and charges

Clause 10 inserts new section 169A to mandate the payment of applicable local government rates and charges as a condition of holding the GHG lease (resource authority).

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance from GHG resource authority holders. The Queensland Government expects resource authority holders to pay their local government rates and charges to foster social license and provide benefits to the communities and regions in which they operate. The introduction of a mandatory condition for the payment of local government rates and charges enables noncompliance action to be taken under the GGS Act if applicable local government rates and charges go unpaid.

The payment of local government rates and charges is currently only a mandatory condition under the *Mineral Resources Act 1989*, and Clause 10 will ensure the intent of these provisions are replicated in the GGS Act for more consistent compliance action and regulation across the Resource Acts.

Amendment of s 270 (Operation and purpose of pt 6)

Clause 11 amends section 270 to enable the security given to the State for a GHG lease (resource authority) to be used to pay any applicable unpaid local government rates and charges, including any interest on overdue rates and charges.

The purpose of this amendment is to support local governments in recovering unpaid rates and charges by enabling money held by the State as security against the resource authority, to be used to pay the local government the unpaid rates and charges for the resource authority.

The clause also amends section 270 to renumber the section.

Part 4 Amendment of Land Act 1994

Act amended

Clause 12 states that this part amends the *Land Act 1994* (Land Act).

Insertion of new s 3A

3A Aboriginal people particularly concerned with land and Torres Strait Islanders particularly concerned with land

Clause 13 inserts a new section 3A replacing the definitions of 'Aboriginal people particularly concerned with land' and 'Torres Strait Islanders particularly concerned with land' in schedule 6 (Clause 73). The new section states that for the purposes of the Land Act, Aboriginal people and Torres Strait Islanders are particularly concerned with the land if they are particularly concerned with the land within the meaning of the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*. This amendment is to ensure consistency with current drafting practice and does not change the operation of the Land Act.

Amendment of s 4 (Object of this Act)

Clause 14 amends section 4 for consistency with amendments to section 16 (Clause 16). Section 4 is amended to remove reference to 'most appropriate use' in the object. This amendment provides that the object will be to allocate land to persons to support the economic, social and physical wellbeing of the people of Queensland.

Amendment of s 14 (Governor in Council may grant land)

Clause 15 amends section 14 to expand the Governor in Council's power to grant land in fee simple to include part of an operational reserve and the whole or part of an operational deed of grant in trust. Section 14(1) is amended to enable implementation of the amendments in clauses 29 and 37.

Section 14(2) is amended to enable the Governor in Council to continue to grant unallocated State land for the provision of services beneficial to Aboriginal people and Torres Strait Islander people particularly concerned with the land. Section 14(2) is amended as a consequence of these purposes being removed from schedule 1 at Clause 72.

Amendment of s 16 (Deciding appropriate tenure)

Clause 16 amends section 16 to remove the requirement for the chief executive to assess the most appropriate use of land before allocating land. Planning instruments established under the planning framework provide a more effective process for assessing the use of the land. This amendment removes duplicative decision making and will result in timelier allocation of tenure. The chief executive will still be required to assess the most appropriate tenure before allocating land.

The amendment provides that in deciding the most appropriate tenure the chief executive must also take account of any State, regional and local planning instruments that apply to the land, including those made under the *Planning Act 2016.*

Section 16(4) is amended to provide that section 16 does not apply to the dedication of unallocated State land as a reserve. This will reduce the administrative burden involved with the dedication of reserves to provide a streamlined process.

Amendment of s 17 (Granting land to the State and the Commonwealth)

Clause 17 amends section 17(1) to provide that the Governor in Council may grant part of an operational reserve and all or part of an operational non-Indigenous deed of grant in trust, in fee simple to the State. Currently, the section provides for the Governor in Council to grant the entirety of an operational reserve in fee simple to the State. This amendment will enable part of an operational reserve and a non-Indigenous operational deed of grant, in whole or in part to be granted in fee simple to the State. Section 17 is amended to enable the implementation of replacement chapter 3, part 1, division 2, subdivision 2 (Clause 29) and the insertion of the new chapter 3, part 1, division 4A (Clause 37).

Amendment of s 28 (Interaction with native title legislation)

Clause *18* amends section 28 to address any potential uncertainty from the insertion of new sections 52AA and 52AB (Clause 41) and the amendments to section 57 (Clause 42). This amendment provides that for the purposes of section 28, an action includes an action taken by trustees of trust land including leasing trust land and changing the way trust land is used. This

amendment will support trustees to accept responsibility for actions taken in the management of trust land. Amendments to section 28 clarify that actions taken by a trustee must not be inconsistent with the *Native Title Act 1993* (Cwlth) and the *Native Title (Queensland) Act 1993*.

Amendment of s 30 (Object)

Clause 19 amends section 30 as a consequence of the replacement of chapter 3, part 1, division 2, subdivision 2 (Clause 29) and the insertion of new chapter 3, part 1, division 4A (Clause 37). This amendment provides that it is an object of chapter 3, part 1 to enable a deed of grant to be issued over all or part of an operational reserve and land contained in a non-Indigenous operational deed of grant in trust, in whole or in part. Additionally, this clause omits references to 'community' to recognise reserves that may be dedicated under new sections 31(1)(b) to (d) as a consequence of amendments to section 31 (Clause 20).

Amendment of s 31 (Dedication of reserve)

Clause 20 amends section 31(1) to enable to Minister to dedicate a reserve for a purpose that is for the community, having regard to community need and the public interest. Currently, the Minister's power to dedicate reserves is restricted to the purposes provided in schedule 1 of the Land Act, which may inhibit the Minister from being responsive to contemporary community needs. This amendment provides greater flexibility for the Minister to make land available for community needs to respond to contemporary requirements from time to time.

Section 31(1) is also amended to ensure that the purposes of the provision of services beneficial to Aboriginal people and Torres Strait Islanders people particularly concerned with the land, remain available for reserves despite their removal from schedule 1.

As a consequence of the amendment to section 31(1), section 31(2) is amended so that it continues to provide that the Minister may only dedicate transferable land for the provision of services beneficial to Aboriginal people and Torres Strait Islanders per new sections 31(b) and (c). Transferable land is defined in schedule 6.

Section 31(5) is amended to remove the reference to 'community' as a consequence of the amendments to section 31(1).

Amendment of s 31A (Changing boundaries of reserve)

Clause 21 amends section 31A(1) as a consequence of amendments to section 31 (Clause 20). This amendment continues to ensure that the Minister cannot change the boundaries of a reserve dedicated for a purpose mentioned in new section 31(1)(b) or (c).

Amendment of s 31B (Changing purpose)

Clause 22 amends section 31B to clarify that the Minister can add or remove purposes of reserves. However, the Minister may not remove a purpose of the reserve if it is the only purpose for which the reserve is dedicated. This amendment will provide greater flexibility for the use of reserve lands and enable land to be more responsive to the needs of the community.

Amendments of s 31C (Applying for dedication of reserve)

Clause 23 amends section 31C as a consequence of amendments to section 31 (Clause 20). This amendment continues to enable persons to apply to the Minister for the dedication of a

reserve for one or more of the purposes provided in new section 31(1)(a) to (c), but does not extend that ability to enable applications for purposes mentioned in new section 31(1)(d).

Amendment of s 31D (Applying for adjustment of reserve)

Clause 24 amends section 31D as a consequence of amendments to section 31 (Clause 20). This amendment provides that an application to change the purpose for which the reserve is dedicated to another purpose, or to add a purpose, may be made only if the new purpose is a purpose mentioned in new section 31(1)(a), (b) or (c).

Amendment of s 33 (Revocation of reserves)

Clause 25 amends section 33(1)(a) as a consequence of amendments to section 31 (Clause 20). Section 33(1)(a) is amended to reference reserve purposes in new sections 31(1)(b) to (d). The Minister may revoke the dedication of all or part of a reserve if it is no longer needed for a community purpose and if it was dedicated for a purpose under new sections 31(1)(b) to (d), it is no longer needed for that purpose. This clause also corrects a grammatical error in section 33(1).

Amendment of s 34F (Effect of revocation)

Clause 26 amends section 34F as a consequence of the amendments in Clause 29. This amendment clarifies that section 34F does not apply to reserves converting to freehold via the process in chapter 3, part 1, division 2, subdivision 2.

Amendment of s 34G (Person to give up possession)

Clause 27 amends section 34G as a consequence of the amendments in Clause 29. This amendment clarifies that section 34G does not apply to reserves converting to freehold via the process in chapter 3, part 1, division 2, subdivision 2.

Amendment of s 34H (Dealing with improvements)

Clause 28 amends section 34H as a consequence of the amendments in Clause 29. This amendment clarifies that section 34H does not apply to reserves converting to freehold via the process in chapter 3, part 1, division 2, subdivision 2.

Replacement of ch 3, pt 1, div 2, sdiv 2

Subdivision 2 Operational reserves

Clause 29 replaces chapter 3, part 1, division 2, subdivision 2 regarding operational reserves.

34I Application of subdivision

This clause amends section 34I to provide that chapter 3, part 1, division 2, subdivision 2 applies to land contained in an operational reserve.

34J Requesting recommendation for issue of deed of grant

This clause inserts a new section 34J to enable a trustee to request the Minister recommend to the Governor in Council the issue of a deed of grant over land contained in an operational reserve.

New section 34J removes the restriction that only constructing authorities can request to freehold operational reserves. Restricting freehold conversion to constructing authorities prevents other trustees of operational reserves from accessing a pathway to freehold. This amendment addresses this issue by enabling all trustees to request freehold. This will align chapter 3, part 1, division 2, subdivision 2 with other provisions in the Land Act, including provisions which enable the conversion of leases to freehold.

Additionally, this amendment enables trustees of operational reserves to request to freehold only part of an operational reserve. The purpose of this amendment is to provide additional flexibility to trustees where they do not seek to hold the entirety of the operational reserve in freehold. Partial conversion of operational reserves may be beneficial for instance, where native title exists over only part of the reserve.

Before making the request, the trustee must give notice of the trustee's intention to make the request to each person with a registered interest in the land subject to the request. The trustee may also give notice to any other person the trustee considers has an interest in the land subject to the request.

34K Offer to recommend issue of deed of grant

The clause inserts a new section 34K to enable the Minister to make an offer to the trustee of an operational reserve to recommend to the Governor in Council that a deed of grant be issued over all or part of the reserve. Trustees have the expertise and are capable of managing the land without state oversight. It is appropriate that trustees hold operational land in freehold. Trustees, however, will not be obliged to accept an offer to convert an operational reserve to freehold.

New section 34K further provides that the Minister may make the offer only if satisfied that the deed of grant would be an appropriate tenure for the land or part of the land. Before accepting the offer, the trustee must give notice of the offer to each person with a registered interest in the land to which the offer relates, and may give notice to any other person the trustee considers has an interest in the land to which the offer relates.

34L Recommending issue of deed of grant

Section 34L is replaced to provide that the Minister may recommend to the Governor in Council the issue of a deed of grant only if satisfied the deed of grant would be an appropriate tenure for the land or part.

The Minister must decide the purchase price of operational reserves in the way prescribed by regulation. This replaces and expands the provision in former section 34IA(2) to apply to all trustees (not just constructing authorities), whether by application or offer, purchasing all or part of an operational reserve.

In accordance with section 28, any action taken under the Land Act must be taken in a way that is not inconsistent with the *Native Title Act 1993* (Cwlth) and the *Native Title (Queensland) Act 1993*.

34M Removal of interests before grant

New section 34M replaces the former section 34L to provide that before the land or part of the land of an operational reserve is freeholded, any State lease or permit to occupy that exists over the land or part must be cancelled or surrendered.

34N Effect of registering deed of grant

New section 34N provides that on the registration of a deed of grant over the land, the dedication of the reserve is revoked. On the registration of a deed of grant over part of the operational reserve, the dedication of the reserve is revoked to the extent it relates to that part.

New section 34N clarifies that the deed of grant takes effect on the day it is registered. The registrar of titles must record the revocation in the appropriate register.

34O Notices about deed of grant

New section 34O is inserted to provide the notice requirements where all or part of an operational reserve is freeholded, or where the Governor in Council decides not to issue a deed of grant.

34OA Effect of revocation of operational reserve

New section 34OA provides that where all or part of an operational reserve is freeholded under new section 34N, in relation to the land subject to the revocation, the reserve ends, all appointments of trustees are cancelled, and the deed of grant is issued. In all other respects (where a partial revocation only is made) the reserve will continue.

Amendment of s 35 (Use of land granted in trust)

Clause 30 amends the note in section 35(1)(a) as a drafting improvement.

The clause also amends section 35 to ensure that the purposes of the provision of services beneficial to Aboriginal people particularly concerned with the land and Torres Strait Islanders particularly concerned with the land, remain available for deeds of grant in trust despite their removal from schedule 1.

References to ‘community’ are removed as a consequence of the insertion of new sections 31(1)(b) and (c) (Clause 20).

Other minor amendments are made as a consequence of renumbering and updating section references.

Amendment of s 38 (Cancelling a deed of grant in trust)

Clause 31 amends section 38 by inserting a new provision (section 38(1A)) to provide that section 38(1)(c) (being the Governor in Council’s power to cancel a deed of grant in trust where the land is used in a way that is inconsistent with the purpose for which it is granted), does not apply to the extent that the use is lawful due to a trustee of the land acting under new sections 52AA(3) or 52AB(2) (Clause 41); or where the use of the land is carried out under the following:

- a trustee lease (construction) or trustee lease (statutory body) that is inconsistent with the purpose for which the land is granted in trust; or
- a trustee lease or sublease approved under section 59(2); or
- a trustee permit that, under section 60(3), is inconsistent with the purpose for which the land is granted in trust; or

- a trustee lease that, under section 64(3), applies and is inconsistent with the purpose for which the land is granted in trust (Clause 45).

The clause also renumbers section 38(1A) to (6) as 38(2) to (7).

Amendment of s 38A (Applying for additional community purpose, amalgamation or cancellation)

Clause 32 amends the heading to section 38A to omit the word 'community' as a consequence of amendments to section 14 (Clause 15). This amendment recognises that a deed of grant in trust may still be granted under new sections 14(2)(b) and (c), for two existing purposes that will no longer be 'community purposes'.

Amendment of s 38D (Notice of registration of action)

Clause 33 amends section 38D to omit the word 'community' as a consequence of amendments to section 14 (Clause 15). This amendment recognises that a deed of grant in trust may be granted under new sections 14(2)(b) and (c) for purposes that will no longer be 'community' purposes.

Amendment of s 38E (Effect of cancellation)

Clause 34 amends section 38E as a consequence of the insertion of the new chapter 3, part 1, division 4A (Clause 37). This amendment clarifies that section 38E does not apply to operational deeds of grant in trust converting to freehold under the new chapter 3, part 1, division 4A.

Amendment of s 38F (Person to give up possession)

Clause 35 amends section 38F as a consequence of the insertion of the new chapter 3, part 1, division 4A (Clause 37). This amendment clarifies that section 38F does not apply to operational deeds of grant in trust converting to freehold under the new chapter 3, part 1, division 4A.

Amendment of s 38G (Dealing with improvements)

Clause 36 amends section 38G as a consequence of the insertion of the new chapter 3, part 1, division 4A (Clause 37). This amendment clarifies that section 38G does not apply to operational deeds of grant in trust converting to freehold under the new chapter 3, part 1, division 4A.

Insertion of new ch 3, pt 1, div 4A

Clause 37 inserts a new division 4A in chapter 3, part 1 of the Land Act to enable the conversion of non-Indigenous operational deeds of grant in trust to freehold.

Division 4A Operational deeds of grant in trust

43A Application of division

New section 43A provides that new chapter 3, part 1, division 4A applies to land contained in an operational deed of grant in trust.

This new division does not apply to deeds of grant in trust granted for a community purpose and deeds of grant in trust referred to in section 39 (Indigenous deeds of grant in trust). State oversight should be retained for deeds of grant in trust granted for a community purpose. The *Aboriginal Land Act 1991* and *Torres Strait Islander Land Act 1991* enable the transfer of deeds of grant in trust land to freehold in certain circumstances addressed by those Acts.

43B Requesting recommendation for issue of deed of grant

New section 43B provides that, like the process for operational reserves, trustees of these operational deeds of grant in trust will be able to request the Minister recommend to the Governor in Council the issue of a deed of grant over the land, or part of the land.

Before requesting, trustees are required to give notice to persons with registered interests in the land and may give notice to other persons the trustee considers has an interest in the land.

43C Offer to recommend issue of deed of grant

New section 43C provides that the Minister may make an offer to the trustee to recommend that the Governor in Council convert the deed of grant in trust to freehold without having first received an application from the trustee.

The Minister may make an offer to recommend freeholding to the Governor in Council only if satisfied that freehold is an appropriate tenure for the land or part of the land.

Before accepting an offer, the trustee is required to give notice to each person with a registered interest in the land and may give notice to other persons the trustee considers has an interest in the land.

43D Recommending issue of deed of grant

New section 43D enables the Minister to make a recommendation to the Governor in Council if the Minister is satisfied that a deed of grant would be an appropriate tenure for the land. If deciding to recommend to the Governor in Council, the Minister must decide the purchase price of the land or part of the land in accordance with the way prescribed by regulation.

43E Effect of registering deed of grant

New section 43E provides that on registration of a deed of grant (freehold) over the land, the deed of grant in trust is cancelled, with the deed of grant taking effect the day it is registered.

The registrar of titles must record the cancellation of the deed of grant in trust in the freehold land register. The registrar must also record any registered interests affecting the land immediately before the issue of the deed of grant in the freehold land register and in the deed of grant.

43F Notices about deed of grant

New section 43F provides the notice requirements where all or part of a deed of grant in trust is freeholded. The chief executive must give notice of the registration to each person who received a notice under sections 43B(2) and (3) or section 43C(3) in relation to the deed of grant. The chief executive must also give notice if the Governor in Council decides not to issue the deed of grant to each person mentioned in subsection (1).

43G Effect of cancelling operational deed of grant in trust

New section 43G provides that upon the cancellation of the deed of grant in trust, the trust ends and appointments of trustees are cancelled. A deed of grant is issued subject to all registered interests affecting the land immediately before the issue of the deed of grant. Where a deed of grant issues over part of the land only, the deed of grant in trust (and the trust) remains in effect over the balance of the land.

Freehold is the most appropriate tenure for these non-Indigenous operational deeds of grant in trust. Division 4A will provide trustees of these lands with an administratively simple and efficient path to freehold in appropriate circumstances. This amendment will enable trustees to effectively manage the land without restrictions or limitations imposed by maintaining state oversight.

Amendment of s 44 (Appointing trustees)

Clause 38 removes the requirement that the Minister must be given written acceptance of an appointment as trustee in an approved form. The requirement for written acceptance of an appointment prior to appointment as trustee is retained.

Amendment of s 46 (Trustee's administrative functions)

Clause 39 amends section 46(1)(a) to provide certainty about the scope of a trustee's powers, a trustee must manage trust land in a way that is consistent with achieving the purpose for which the land is dedicated as a reserve or granted in trust. A note is inserted in section 46(1)(a) referencing sections 52AA, 52AB, 57, 60, and 64 which provide powers for trustees to do things that are inconsistent with the purpose for which trust land is dedicated as a reserve or granted in trust.

Amendment of s 52 (General powers of trustee)

Clause 40 amends section 52 to provide that the requirement in section 52(2)(a), that actions must be consistent with the purpose of trust land, is subject to new sections 52AA and 52AB (Clause 41). The drafting of section 52(2)(a) has been improved to recognise that the purpose for which a reserve is dedicated may change over time and be different from the purpose for which it was originally dedicated.

Insertion of new ss 52AA and 52AB

Clause 41 inserts new sections which deal with actions by trustees that are inconsistent with the purpose of those trust lands.

52AA Approval of inconsistent actions

New section 52AA provides that the Minister may approve an action under section 52(1) that is inconsistent with the purpose of trust land, if the Minister is satisfied that the action will not diminish the purpose of the trust land and will not adversely affect the public interest. The requirement that the action not adversely affect the public interest replaces the current requirement that the inconsistent action not 'adversely affect any business in the area surrounding' the trust land. This will require the Minister to consider the wider public interest in making these decisions.

52AB Inconsistent actions by particular trustees

New section 52AB enables trustees that are the State or statutory bodies to take actions that are inconsistent with the purpose of trust land where the action will not diminish the purpose of the trust land or adversely affect the public interest. These trustees will be required to prepare a management plan that addresses how the action will not diminish the purpose of the land or adversely affect the public interest. The management plan must be complied with and will not require approval under the Land Act.

Trustees are appointed to manage state land as they have a particular association or expertise relevant to the trust land or local community. The Land Act currently supports self-governing decision making for the trustees in relation to management actions and additional purposes that are consistent with the original purpose for which the trust land was dedicated. Ministerial approval, however, is required where additional uses are considered inconsistent with the original purpose. In practice, requiring trustees to seek ministerial approval to undertake any action that is inconsistent with the purpose of the trust land adds an unnecessary layer of administrative oversight. It is considered that the State and statutory bodies are equipped to make these decisions. This amendment will provide greater autonomy for trustees and remove the administrative burden of seeking ministerial approval.

Trustees will be required to ensure that any action taken is not inconsistent with the *Native Title Act 1993* (Cwlth) and the *Native Title (Queensland) Act 1993*.

Amendment of s 57 (Trustee leases)

Clause 42 amends section 57 to allow trustee leases that are made by trustees that are the State or statutory bodies to be granted without the approval of the Minister, where the purpose of the lease is inconsistent with the purpose of the trust land. The amendments require these trustees to develop a management plan that states how the lease will not diminish the purpose of the trust land or adversely affect the public interest. The lease and the management plan will not require approval under the Land Act, nor will it be required to be published. The management plan must be complied with.

This amendment provides greater autonomy to these trustees and removes the administrative burden of seeking ministerial approval.

In accordance with section 28, trustees will be required to ensure that the issuing of a lease is not inconsistent with the *Native Title Act 1993* (Cwlth) and the *Native Title (Queensland) Act 1993*.

Amendment of s 58 (Other transactions relating to trustee leases)

Clause 43 amends section 58 as a consequence of the renumbering of section 57 (Clause 42).

This clause also corrects a grammatical error in section 58(4)(a).

Amendment of s 61 (Conditions on trustee leases and trustee permits)

Clause 44 amends section 61 as a consequence of the amendments to section 57 (Clause 42). The section heading is amended to insert ‘subleases’, making it clear the section also applies to subleases. Amendments to sections 61(1) and (2) clarify that the reference to a sublease refers to a sublease of trust land.

The amendment to section 61(4) adjusts the statutory condition to cover the wider scope of potential use of trust land. The amended section 61(4) ensures that lessees, sublessees and permittees have the benefit of undue interruption or obstruction where the trustee lease, sublease or trustee permit enables use that is inconsistent with the purpose of the trust land, as long as the use is lawful and consistent with the purpose of the lease, sublease or permit.

The clause omits section 61(6) which defines 'operational deed of grant in trust' for the purpose of this section, as a consequence of the definition being included in schedule 6 (Dictionary) at Clause 73.

Amendment of s 64 (Minister may dispense with approval)

Clause 45 amends section 64 to enable trustees that are provided with ministerial written authority to issue trustee leases that are inconsistent with the purpose of trust land. Trustees are required to prepare a management plan which states how the trustee lease will not diminish the purpose of the land or adversely affect the public interest. The trustee lease must be consistent with the management plan. This will provide greater flexibility with reduced administrative burden for those trustees that are given ministerial written authority.

Amendment of s 121 (Leases of unallocated State land)

Clause 46 amends section 121 as a consequence of amendments to section 16 (Clause 16). Section 121 is amended to remove the requirement for the Minister to decide that the intended use of the unallocated State land is the most appropriate use of the land when granting a lease of unallocated State land without competition.

Amendment of s 122 (Deeds of grant of unallocated State land)

Clause 47 amends section 122 to enable a deed of grant to be issued to the State without competition, without the Minister having to first determine that the land is needed for a public purpose. Currently this power is restricted to a deed of grant to the Minister for Economic Development Queensland, which prevents unallocated State land being allocated to other State entities in a timely and efficient manner. This amendment removes this restriction and facilitates the efficient allocation of state land for the benefit of the people of Queensland.

Section 122(2) is amended to clarify that a deed of grant of unallocated State land may continue to be granted without competition to a constructing authority other than the State, where the Minister decides that the land is needed for a public purpose.

Amendment of s 124 (Leases of State forests and national parks)

Clause 48 amends section 124 to insert notes which refer to relevant sections of the *Forestry Act 1959* and the *Nature Conservation Act 1992* that relate to granting a lease over land in a State forest or over or in relation to land in a national park.

Amendment of s 130A (Change of financial and managerial capabilities of lessee of lease for significant development)

Clause 49 removes the requirement that the lessee of a relevant lease must use an approved form to provide notice to the Minister if there is a relevant change to the lessee. Lessees will still be required to provide notice to the Minister as soon as practicable of any relevant change to the lessee. The purpose of this amendment is to align with current practice.

Amendment of s 153 (Lease must state its purpose)

Clause 50 omits a reference in the note to section 16, instead only referencing section 199A. This amendment is a consequence of the amendments to section 16 (Clause 16).

Amendment of s 154 (Minister may approve additional purposes)

Clause 51 amends section 154, and specifically section 154(2), to clarify that the Minister may only approve an application to add a purpose to a lease where the approval would not result in a change to the rental category of the lease.

Sections 154(3)(b) to (d) are omitted as a result of the amendment to section 154(2).

Sections 154(7) and (8) are amended to make it clear that if the application is approved, the purposes of the lease, as changed, must be registered. Where an imposed condition of the lease is changed under section 210 in connection with the approval, changed conditions must be registered in conjunction with the registration of the purposes of the lease, as changed.

Section 154(10) is inserted to provide that this section does not apply in relation to a term lease for grazing purposes where the land is in a conservation park, forest reserve, national park, resources reserve, State forest or timber reserve.

Amendment of s 159 (Deciding whether to offer new lease)

Clause 52 amends section 159 as a consequence of amendments to section 16 (Clause 16). This amendment omits the requirement that the chief executive must consider whether part of the lease land has a more appropriate use from a land planning perspective before deciding to offer a new lease. Consistent with the amendments to section 16, it is considered that assessing the use of the land is more appropriately managed under the planning framework.

Section 159 is also amended to insert notes referring to the relevant sections of the *Forestry Act 1959* and the *Nature Conservation Act 1992* regarding the renewal of leases over land in a State forest or over or in relation to land in a national park.

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

Clause 53 amends section 159A to replace a reference to section 159(1)(k) with section 159(1)(j) as a consequence of the renumbering of section 159.

Amendment of s 164A (Approval of lease as a rolling term lease)

Clause 54 amends section 164A as a consequence of amendments to section 16 (Clause 16). To ensure consistency with amendments to section 164A(2), this amendment inserts a requirement to clarify that the Minister must be satisfied that the most appropriate tenure for the lease is a rolling term lease before the Minister can approve a lease as a rolling term lease as mentioned in section 164(1)(b)(ii).

For leases referred to in section 164A(2), the Minister is no longer required to consider if the most appropriate use of the lease land is for agriculture, grazing or pastoral purposes.

Amendment of s 164C (Making extension application or giving expiry advice)

Clause 55 removes the requirement that the lessee must provide an expiry advice in the approved form. This amendment will provide consistency with current practice. The expiry advice provided under section 164C(2) is required to be in writing.

Amendment of s 167 (Provisions for deciding conversion application)

Clause 56 amends section 167 as a consequence of amendments to section 16 (Clause 16). This amendment omits the requirement that the chief executive must consider whether part of the lease land has a more appropriate use (section 167(2)(h)) from a land planning perspective before deciding to offer to convert a lease.

Section 167(2)(i) to (m) are renumbered as section 167(2)(h) to (l).

Section 167(2) is also amended to insert a note referring to the *Nature Conservation Act 1992* for granting a lease over or in relation to land in a national park.

Section 167(7) is amended to reference the correct section after renumbering.

Amendment of s 180 (When permit may be cancelled or surrendered)

Clause 57 amends section 180 as a consequence of amendments to section 16 (Clause 16). The former section 180(1)(c) provided that a permit may be cancelled if the chief executive, having evaluated the land under section 16, considers the permit is not consistent with the most appropriate tenure and use for the land. This amendment removes consideration of whether the permit is not consistent with the most appropriate use for the land.

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

Clause 58 replaces section 199A(2) and (3) to remove the restriction that term leases for pastoral purposes can only be used for agricultural or grazing purposes, or both. This amendment will enable lessees of term leases for pastoral purposes to diversify the use of the leased land. Further amendments to section 199A clarify that if the purpose of the lease land changes under section 154, the land may be used only for the purposes as changed.

Lessees may seek approval for additional purposes on leases for a variety of reasons, including to provide infrastructure or a service to support the original purpose of the lease, or to generate a secondary sustainable income stream to buffer times of financial hardship.

Amendment of s 249 (Payment by the State for improvements)

Clause 59 amends section 249 as a consequence of amendments to section 31 (Clause 20). Section 249(1)(a) is amended to replace 'a community purpose' with a purpose mentioned in the new section 31(1) to capture reserves that may be dedicated under that section.

Amendment of s 288A (Original mortgagee to confirm identity of mortgagor)

Clause 60 removes the requirement that a mortgagee use an approved form to record the steps taken to confirm the identity of a mortgagor before lodging the instrument of mortgage for registration. This amendment will provide consistency in practice with the Land Title Practice Manual. Mortgagees will still be required to record the steps taken to confirm identity but will not have to do so by using an approved form.

Amendment of s 288B (Mortgage transferee to confirm identity of mortgagor)

Clause 61 removes the requirement that a mortgage transferee use an approved form to record the steps taken to confirm the identity of a mortgagor before lodging the instrument of transfer for registration. This amendment will provide consistency in practice with the Land Title Practice Manual. Mortgage transferees will still be required to record the steps taken to confirm identity but will not have to do so by using an approved form.

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

Clause 62 amends section 290J as a consequence of amendments to section 31 (Clause 20). This amendment omits the reference to 'community' from section 290J(1)(d) to include reserve purposes other than community purposes in new section 31(1).

A new subsection (1A) is inserted to clarify that a purpose of the reserve must be a purpose mentioned in new section 31(1) for the purposes of section 290J(1)(d). New section 290J(1A) does not apply in the situation where an existing reserve is being subdivided because the plan is not providing for the land to be dedicated as a reserve.

Amendment of s 290JA (Dedication of public use land in plan)

Clause 63 amends section 290JA as a consequence of amendments to section 31 (Clause 20). This amendment omits the reference to 'community' from section 290JA to include reserves dedicated as a purpose other than community purposes in the new section 31(1).

Amendment of s 389L (Registrar of titles may prepare and register caveat)

Clause 64 inserts a definition of 'relevant tenure' in section 389L(5) which provides that for the purposes of section 389L, relevant tenure includes a lease, licence, an operational reserve or a part of an operational reserve, or a reserve other than an operational reserve. This amendment enables a caveat to be registered over an operational reserve, or part of an operational reserve in favour of the State.

The definition of 'extinguish' in section 389L(5) is amended to apply to part of an operational reserve.

Insertion of new s 403W

403W Provision relating to offers made under ss 34K and 43C

Clause 65 inserts a new section 403W as a consequence of the insertion of new sections 34K and 43C (Clause 29 and Clause 37) to provide the requirements relating to offers made under the new sections 34K and 43C. This section sets out the matters that must be stated in a notice given under section 34K(3) or 43C(3).

New subsection (3) provides that a person given the notice may make a submission against the offer to the trustee or the chief executive and sets out the requirements of the submission.

New subsection (5) requires that if the trustee accepts the offer, the acceptance must be given to the chief executive along with a copy of the notice given and any submissions made to the trustee.

New subsection (6) provides that the Minister must consider a submission against the offer when deciding whether to make a recommendation to the Governor in Council for the issue of a deed of grant over the land.

The intention of this clause is to ensure that parties that may be affected by the issue of a deed of grant have the opportunity to be heard in relation to the proposed conversion of trust land to freehold.

Insertion of new s 420AB

420AB Definition for part

Clause 66 inserts a new section 420AB which provides a definition of 'application' for the part. 'Application' is defined to include a request made under section 34J (Clause 29) or section 43B (Clause 37).

Amendment of s 420CA (Requirements for giving notice of intention to apply)

Clause 67 removes the requirement that a person must give notice of their intention to make an application in the approved form. This amendment will reduce the administrative burden and will provide consistency with current practice. Notice is still required to be provided in writing.

Amendment of s 420CB (Submissions)

Clause 68 removes the requirement that an entity must make a submission against a proposed application in the approved form. This amendment will reduce the administrative burden and will provide consistency with current practice. Notice is still required to be provided in writing.

Replacement of s 477 (Change of purpose for special lease)

Clause 69 replaces section 477 to provide that the lessee of a special lease may apply under section 154 to change the purpose of the lease, unless the lease is for grazing purposes and over land in a conservation park, forest reserve, national park, resources reserve, State forest or timber reserve. This clause also omits the note in section 477 as a consequence of amendments to section 154 (Clause 51).

Amendment of s 481G (Notice of cancellation or absolute surrender)

Clause 70 removes the requirement that the chief executive give notice of cancellation or absolute surrender of occupation licence in the approved form. This amendment will reduce the administrative burden and will provide consistency with current practice. Notice is still required to be provided in writing.

A grammatical error is also corrected in section 481G(1) with the term 'occupational' being replaced with 'occupation'.

Insertion of new ch 9, pt 8

Part 8 Transitional provisions for Land and Other Legislation Amendment Act (No. 2) 2023

Clause 71 inserts transitional provisions for the Land and Other Legislation Amendment Act (No. 2) 2023.

Division 1 Preliminary

555 Definitions for part

New section 555 provides definitions for this part.

Division 2 Existing reserves and deeds of grant in trust

556 Application of division

New section 556 provides that division 2 applies to land that, immediately before the commencement, was dedicated as a reserve or granted in fee simple in trust.

557 Existing reserves and deeds of grant in trust for former schedule 1 purposes

New section 557 provides that land dedicated as a reserve or granted in trust for a prescribed former schedule 1 purpose immediately before commencement, will be taken on commencement to be dedicated as a reserve or granted in trust for the corresponding community purpose for the prescribed former schedule 1 purpose.

558 Existing reserves and deeds of grant in trust for transitioned purposes

New section 558 provides that land dedicated as a reserve or granted in trust for a purpose stated in column 1 of the transitioned purpose table in the section immediately before commencement, will be taken from commencement to be dedicated for the purpose stated in column 2 of the same table.

559 Existing reserves and deeds of grant in trust for particular purposes

New section 559 provides that despite the replacement of schedule 1 (Clause 72), land dedicated as a reserve or granted in trust for cultural purposes, travelling stock requirements or watering-places continues to be dedicated as a reserve or granted in trust for that purpose. While theses purposes remain in effect for the land, the amended Act applies in relation to the land as if it were dedicated as a reserve, or granted in trust, for a community purpose.

560 Existing reserves and deeds of grant in trust for other purposes

New section 560 provides that where land was dedicated as a reserve or granted in trust for a purpose other than a schedule 1 purpose, a transitioned purpose or purpose stated in section 559, the purpose remains in effect for the land. The land is taken to be dedicated as a reserve, or granted in trust for a purpose that is not a community purpose.

Division 3 Provisions relating to dedicating and changing purposes of reserves

561 Existing applications under former s 31C for reserves for prescribed former schedule 1 purposes

New section 560 applies to an application for the dedication of unallocated State land as a reserve for a prescribed former schedule 1 purpose made under former section 31C(1) before the commencement. It provides that if the application had not been decided prior to commencement, then on commencement, the application is taken to be an application for the

dedication of the land as a reserve for the corresponding community purpose for the prescribed former schedule 1 purpose.

This section also provides that if before the commencement, the application was approved but a dedication notice or a plan of subdivision for the reserve had not been registered under former section 31, the notice or plan is taken to state that the purpose for which the land is dedicated is the corresponding community purpose for the prescribed former schedule 1 purpose.

562 Existing applications under former s 31C for reserves for particular purposes

New section 562 applies to an application made under former section 31C(1) before the commencement to the extent the application is for the dedication of unallocated State land as a reserve for cultural purposes, travelling stock requirements and watering-places and if the application had not been decided or had been approved but a dedication notice or plan of subdivision for the reserve had not been registered under former section 31.

This section provides that the Minister may dedicate the land as a reserve for the purpose under section 31. The intention is to ensure that reserves for these purposes can still be dedicated where a process to establish the reserve had commenced before the Act commenced.

New section 562(3) provides that new section 290J(2) does not apply in relation to a plan of subdivision registered under new section 562(2).

To the extent the land is dedicated as a reserve for the purpose under new section 562(2), while the purpose remains in effect for the land, the amended Act applies in relation to the land as if it were dedicated as a reserve for a community purpose.

563 Existing applications under former s 31C for reserves for non-community purposes

New section 563 applies to an application, made under former section 31C(1) before the commencement, to the extent the application is for the dedication of unallocated State land as a reserve for a non-community purpose.

New section 563 provides that if the application had not been decided before the commencement, the application lapses.

If before the commencement, the application was approved but a dedication notice or plan of subdivision for the reserve had not been registered under former section 31, the Minister may dedicate the reserve for the non-community purpose under new section 31.

New section 563(6) provides that new section 290J(2) does not apply in relation to a plan of subdivision registered under new section 563(5).

To the extent the land is dedicated as a reserve for the non-community purpose under section 563(5), while the purpose remains in effect for the land, the land the is taken to be dedicated as a reserve for a purpose that is not a community purpose.

564 Existing applications under former s 31D to change purpose to prescribed former schedule 1 purpose

New section 564 applies to an application to change the purpose for which a reserve is dedicated to a prescribed former schedule 1 purpose under former section 31D(1)(b) before commencement. It provides that if the application had not been decided before commencement, the application is taken to be an application to change the purpose for which the reserve is dedicated to the corresponding community purpose for the former schedule 1 purpose.

This section also provides that if an application was approved but an adjustment notice for the change has not yet been registered under former section 31B, the notice is taken to state that the changed purpose for the reserve is the corresponding community purpose for the prescribed former schedule 1 purpose.

565 Existing applications under former s 31D to change purpose to particular purposes

New section 565 applies to applications made under former section 31D(1)(b) before commencement for a change to the purpose for which a reserve is dedicated to any of the following purposes (stated in the former schedule 1): cultural purposes, travelling stock requirements, watering-places.

If before commencement the application had not been decided or had been approved but an adjustment notice for the change had not been registered under former section 31B; the Minister may change the purpose for which the reserve is dedicated to the new purpose under section 31B.

If the purpose for which the reserve is dedicated is changed to a new purpose under section 565(2), while that new purpose remains in effect for the reserve, the amended Act applies to the reserve as if it were dedicated for a community purpose.

566 Existing applications under former s 31D to change purpose to non-community purpose

New section 566 applies to applications made under the former section 31D(1)(b) before commencement where, the application is to change the purpose for which a reserve is dedicated to a non-community purpose. If the application has not been decided before commencement, on commencement the application lapses. If the application was approved but an adjustment notice for the change had not been registered under former section 31B an adjustment notice for the change may be registered under the new section 31B.

Where a reserve is dedicated for a non-community purpose, the non-community purpose remains in effect and the reserve is taken to be dedicated for a purpose that is not a community purpose.

567 Documents lodged before commencement—reserve for prescribed former schedule 1 purpose

New section 567 applies to a dedication notice, or a plan of subdivision, lodged but not registered before commencement where, the plan or notice provides for the dedication of land to public use as a reserve for a prescribed former schedule 1 purpose, but not applications made under the former section 31C.

This section also applies to an adjustment notice lodged but not registered before commencement if, the notice provides for the reserves purpose to change to a prescribed former schedule 1 purpose, and the change does not relate to an application under the former section 31D(1)(b) before commencement.

On commencement, the plan of subdivision or dedication notice is taken to state the purpose corresponding to community purpose for the prescribed former schedule 1 purpose. The adjustment notice is taken to state that the new purpose of the reserve is the is the corresponding community purpose for the prescribed former schedule 1 purpose.

568 Documents lodged before commencement—reserve for particular purposes

New section 568 applies to a plan of subdivision or dedication notice lodged but not registered before commencement where, the plan or notice provides for the dedication land to public uses as a reserve for any of the following purposes stated in schedule 1: cultural purposes, travelling stock requirements, watering-places and the dedication of the reserve does not relate to an application under former section 31C before commencement.

This section also applies to an adjustment notice lodged but not registered before commencement where, the notice provides for the purpose for which the reserve is dedicated to change to one of the following purposes: cultural purposes, travelling stock requirements, watering-places and the change does not relate to an application made under former section 31D(1)(b) before commencement.

The plan may be registered under the new section 31 or 31B. Section 290J(2) does not apply in relation to the plan of subdivision.

If the plan of subdivision, dedication notice or adjustment notice is registered under new section 568(2) the purpose remains in effect for the reserve, and the amended Act applies in relation to the reserve as if it were dedicated for a community purpose.

569 Documents lodged before commencement—reserves for non-community purposes

New section 569 applies to a plan of subdivision, or dedication notice lodged but not registered before commencement where the plan or notice provides for the dedication of land to public use as a reserve for a non-community purpose and the dedication of a reserve does not relate to an application made under former section 31C.

This section also applies to an adjustment notice lodged but not registered before commencement where the notice provides for the purpose for which a reserve is dedicated to change to a non-community and purpose and the change does not relate to an application made under former section 31D(1)(b) before commencement.

The plan of subdivision, dedication notice or adjustment notice may be registered under new section 31 or 31B. New section 290J(2) does not apply in relation to the plan of subdivision. Where a plan of subdivision, dedication notice or adjustment notice is registered under new section 569(3) the non-community purpose remains in effect for the reserve, and the reserve is taken to be dedicated for a purpose that is not a community purpose.

570 Existing agreements about dedicating reserve

New section 570 applies if the State is party to an agreement entered into before commencement and the agreement provides for the dedication unallocated State land as a reserve for a purpose other than a purpose mentioned in new section 31(1). If before commencement the Minister had not dedicated the land as a reserve under the former section 31 and a person had not applied for the dedication of the land as a reserve under the former section 31C in in accordance with the agreement, the Miniter may dedicate the land as a reserve for the purpose under new section 31.

New section 290J(2) does not apply in relation to a plan of subdivision registered under this section.

Division 4 Provisions relating to additional purposes for deeds of grant in trust

571 Existing notifications under former s 35—prescribed former schedule 1 purposes

New section 571 applies if before commencement the Governor in Council notified, under former section 35(2), an additional purpose that is a prescribed former schedule 1 purpose for land granted in trust but an adjustment notice for the additional purpose had not been registered. It provides that if an adjustment notice for the additional purpose had been lodged before the commencement, the notice is taken to state that the additional purpose for the land is the corresponding community purpose for the prescribed former schedule 1 purpose.

572 Existing notifications under former s 35—particular purposes

New section 572 applies if, before the commencement the Governor in Council notified, under former section 35(2), any of the following additional purposes stated in former schedule 1 for land granted in trust: cultural purposes, travelling stock requirements, watering-places, but an adjustment notice for the additional purpose had not been registered under former section 35.

The section provides that an adjustment notice for the additional purpose may be registered under new section 35.

To the extent that an adjustment notice for the additional purpose is registered under new section 572(2), while the additional purpose remains in effect for the land, the amended Act applies in relation to the land as if it were granted in trust for a community purpose.

573 Existing notifications under former s 35—non-community purposes

New section 573 applies if before the commencement, the Governor in Council notified under former section 35(2), an additional purpose that is a non-community purpose for land granted in trust but an adjustment notice for the additional purpose had not been registered. It provides that an adjustment notice for the additional purpose may be registered under new section 35.

To the extent an adjustment notice for the additional purpose is registered under new section 573(2), while the additional purpose remains in effect for the land, the land is taken to be granted in trust for a purpose that is not a community purpose.

574 Existing applications under former s 38A—prescribed former schedule 1 purposes

New section 574 applies to an application made under former section 38A(1)(a) before the commencement. It provides that to the extent the application is for the notification of an additional purpose that is a prescribed former schedule 1 purpose for land granted in trust and if before the commencement, the application had not been decided or the application had been approved but the additional purpose had not been notified under former section 35(2).

It provides that on the commencement, the application is taken to be an application for the notification of an additional purpose that is the corresponding community purpose for the prescribed former schedule 1 purpose.

575 Existing applications under former s 38A—particular purposes

New section 575 applies to an application made under former section 38A(1)(a) before the commencement, to the extent the application is for the notification of any of the following additional purpose cultural purposes, travelling stock requirements and watering-places and if before commencement the application had not been decided or the application had been approved but the additional purpose had not been notified under former section 35.

New section 575 provides that the Governor in Council may notify the additional purpose under new section 35. An adjustment notice for the additional purpose may be registered under new section 35. Where an adjustment notice for the additional purpose is registered, the additional purpose remains in effect for the land, the amended Act applies in relation to the land as if the land was granted in trust for a community purpose.

576 Existing applications under former s 38A—non-community purposes

New section 576 applies to an application, made under former section 38A(1)(a) before the commencement, to the extent the application is for the notification of an additional purpose that is a non-community purpose for land granted in trust. It provides that if the application had not been decided before the commencement, on the commencement, the application lapses.

New section 576 further provides that if before the commencement, the application was approved but the additional purpose had not been notified under former section 35, the Governor in Council may notify the additional purpose under new section 35. An adjustment notice for the additional purpose may be registered under new section 35. Where an adjustment notice for the additional purpose is registered under new section 576(6), while the additional purpose remains in effect for the land, the land is taken to be granted in trust for a purpose that is not a community purpose.

Division 5 Other provisions

577 Existing approvals of inconsistent actions under former s 52

New section 577 applies to an approval given under former section 52(3) that is in effect immediately before the commencement. New section 577(2) provides that on commencement, the approval is taken to be an approval given under new section 52AA(1).

578 Existing applications under former s 52

New section 578 applies to an application made under former section 52(5), but not decided, before the commencement. New section 578(2) provides that on commencement, the application is taken to be an application for an approval under new section 52AA(1).

579 Existing applications under former s 154

New section 579 applies to an application made under former section 154 but not decided before commencement. The Act as in force immediately before commencement continues to apply, however if an application under section 154 was made on or after 15 November 2023 and relates to a term lease, or special lease, for grazing purposes over land in an area mentioned in new section 154(10), the application lapses on commencement.

580 Existing approvals under former s 154 if change of purpose not registered before commencement

New section 580 applies to an application made under former section 154 where the Minister decided to approve the application, and immediately before commencement the purposes of the lease, as changed, had not been registered. The Act as in force immediately before commencement continues to apply in relation to the application and approval. If the application was made on or after 15 November 2023 and relates to a term lease, or special lease, for grazing purposes over land in an area mentioned in new section 154(10), the approval is taken to have no effect.

581 Change of purpose registered for particular leases before commencement

New section 581 applies to an application made under former section 154 between 15 November 2023 and commencement to change the purpose of a term lease, or special lease, for grazing purposes over land in an area mentioned in new section 154(10). If the Minister decided to approve the application and the purposes of the lease, as changed, were registered, on commencement the approval is taken to have no effect and the purpose of the lease is taken to be the purpose of the lease in effect immediately before the change was registered.

Replacement of sch 1 (Community purposes)

Schedule 1 Community purposes

Clause 72 omits all existing specific purposes from schedule 1 and replaces them with categories. The former purposes where applicable, are referenced as examples within the new categories. The following schedule 1 purposes are not listed as examples of the new community purposes because they are considered to be operational in nature (or because they are provided for separately in section 31(1)):

- crematoriums
- drainage
- mortuaries
- navigational purposes
- provision of services beneficial to Aboriginal people particularly concerned with land

- provision of services beneficial to Torres Strait Islanders particularly concerned with land
- public toilet facilities
- roads
- strategic land management.

Land may be dedicated as a reserve for one of six general purpose categories in column 1, schedule 1. The intent of this amendment is to enable the Land Act to be more flexible and responsive to contemporary community needs.

The purposes of the 'provision of services beneficial to Aboriginal people particularly concerned with land' and the 'provision of services beneficial to Torres Strait Islanders particularly concerned with land' are omitted from schedule 1 and instead provided as purposes for which the Minister can dedicate land under the new section 31(1)(b) and (c).

Amendment of sch 6 (Dictionary)

Clause 73 amends schedule 6 (Dictionary) of the Land Act.

The definitions of 'Aboriginal people particularly concerned with land' and 'Torres Strait Islanders particularly concerned with land' are omitted from schedule 6 because they are now referred to in section 3A (clause 4).

The definition of 'relevant tenure' is omitted from schedule 6 and inserted into section 389L(5).

A definition of 'amendment Act' is inserted to mean the *Land and Other Legislation Amendment Act (No. 2) 2023*.

A definition of 'application for chapter 7, part 2A' is inserted and refers to section 420AB.

The definition of 'community purpose' is replaced to clarify that a community purpose is a purpose stated in schedule 1, column 1, as a consequence of the amendments to schedule 1.

A definition of 'former schedule 1' is inserted.

The definition of 'operational deed of grant in trust' is moved to schedule 6 and amended to ensure that land that is still required for community use is not available for freeholding.

The definition of 'operational reserve' is amended to include certain reserves created between the commencement of the *Land Act 1994* and the commencement of the *Land and Other Legislation Amendment Act (No. 2) 2023* and to ensure that land that is still required for community use is not available for freeholding.

The definition of 'public interest' is amended to include 'economic' interests. This amendment will clarify that decision makers must take economic matters into account when assessing public interest.

The definition of 'public purpose' is amended to include a purpose stated in former schedule 1.

The definitions of 'trustee lease (construction)' and 'trustee lease (State or statutory body)' are amended as a consequence of amendments to section 57.

Part 5 Amendment of Land Regulation 2020

Regulation amended

Clause 74 states that this part amends the Land Regulation 2020 (Land Regulation).

Amendment of s 7 (Requirements for relevant lease – Act, s 64)

Clause 75 amends section 7 as a consequence of amendments to section 64 of the Land Act.

Amendment of s 9 (Deciding purchase price for particular purposes – Act, ss 109C, 122, 123A and 170)

Clause 76 amends section 9 to update references to section 122(3) of the Land Act. Section 9 is also amended to insert a note in section 9(1)(b) to refer to section 18 for the purchase price for granting unallocated State land under section 122(1) or (2)(a) of the Land Act.

Amendment of s 11 (Deciding purchase price for land in operational reserve – Act, s 34IA)

Clause 77 amends section 11 as a consequence to the insertion of the new section 34L and 43D in the Land Act (Clause 29 and Clause 37). Section 11(1) is amended to prescribe the way in which the Minister must decide the purchase price for operational deeds of grant in trust.

Section 11(2)(b) is also amended to provide that the Minister can only decide an amount for the purchase price other than under section 11(2)(a) if the trustee of the land is a constructing authority.

The heading for section 11 is also amended to update the reference to the former 34IA(2) and replace it with the new section 34L and 43D.

Amendment of s 12 (Deciding unimproved value of particular land – Act, ss 25, 69 and 127)

Clause 78 amends section 12 as a consequence to the renumbering of section 13 (Clause 79).

Amendment of s 13 (Working out unimproved value of land)

Clause 79 omits sections 13(5) and (6) and inserts new sections providing the date of valuation of land in relation to freeholding of an operational reserve or an operational deed of grant in trust as a consequence of the replacement of chapter 3, part 1, division 1, subdivision 2 and the insertion of new sections 43B and 43C of the Land Act. The date of valuation for requests under section 34J(1) or 43B(1) of the Land Act is the day the chief executive receives the request. The date for a proactive offer under section 34K(1) or 43C(1) of the Land Act is the date stated in the offer. The amendment clarifies that for offers, the day stated in the offer may be earlier than the day the offer is made but may not be earlier than 4 months before the day the offer is made.

Amendment of s 16 (Value of quarry material)

Clause 80 updates references to section 122 of the Land Act in section 16 as a consequence of amendments to section 122 of the Land Act (Clause 47).

Amendment of s 18 (Deciding purchase price for particular grants of unallocated State land – Act, s 122)

Clause 81 amends section 18(1) to include references to the State and update a reference as a consequence of amendments to section 122 of the Land Act (Clause 47).

Amendment of s 30 (Category 16 tenure)

Clause 82 omits references to 'use' of the land in section 30(b) as a consequence to amendments of section 16 of the Land Act. This amendment will clarify that the chief executive is not required to assess the most appropriate use of the lease land for it to be categorised as a category 16 tenure.

Amendment of s 31 (Allocating particular lease or licence to rental category)

Clause 83 amends section 31 to omit section 31(4) and 31(5) as a consequence of amendments to section 154 of the Land Act (Clause 51). Section 31 is also amended to provide new section 31(2A) that when the Minister gives notice of a rental category decision to the prospective lessee or licensee under section 31(2), the notice must include or be accompanied by an information notice for the rental category decision.

Sections 31(2A) and (3) are renumbered as section 31(3) and (4).

Amendment of s 44 (Rent adjustments for change of rental valuation or category of tenure)

Clause 84 omits the first example provided in section 44(1) as a consequence of amendments to section 154 of the Land Act (Clause 51).

Omission of s 45 (Rent adjustment for change of purpose and category of lease)

Clause 85 omits section 45 as a consequence of amendments to section 154 of the Land Act (Clause 51).

Amendment of s 47 (How rent adjustment must be made)

Clause 86 amends section 47 as a consequence of the omission of section 45 (Clause 85).

Amendment of sch 3 (Prescribed terms of particular trustee leases and subleases)

Clause 87 amends schedule 3 to provide that section 6(2) does not apply to a trustee lease (State or statutory body) or a trustee lease approved under section 59(2) of the Act. This amendment clarifies that (where applicable) trustees are able to make trustee leases inconsistent with the purpose for which the trust land is dedicated or granted in trust.

Part 6 Amendment of Land Title Act 1994

Division 1 Preliminary

Act amended

Clause 88 states that this part amends the *Land Title Act 1994* (Land Title Act).

Division 2 Amendment commencing on assent

Amendment of s 11A (Original mortgagee to confirm identity of mortgagor)

Clause 89 removes the requirement that a mortgagee use an approved form to record the steps taken to confirm the identity of a mortgagor before lodging the instrument of mortgage for registration. This amendment will provide consistency in practice with the Land Title Practice Manual. Mortgagees will still be required to record the steps taken to confirm identity but will not have to do so by using an approved form.

Amendment of s 11B (Mortgage transferee to confirm identity of mortgagor)

Clause 90 removes the requirement that a mortgage transferee use an approved form to record the steps taken to confirm the identity of a mortgagor before lodging the instrument of transfer for registration. This amendment will provide consistency in practice with the Land Title Practice Manual. Mortgage transferees will still be required to record the steps taken to confirm identity but will not have to do so by using an approved form.

Amendment of s 51 (Dedication of public use land in plan)

Clause 91 amends section 51(2)(c) as a consequence of amendments to section 31(1) (Clause 20) to include the purposes that reserve land may be dedicated for under this section.

Amendment of s 185 (Exception to s 184)

Clause 92 amends section 185(1) to provide that access agreements relate to the *Mineral and Energy Resources (Common Provisions) Act 2014* (MERCP). These amendments clarify that the section 185 exceptions to indefeasibility of title, related to access agreements, refer to the MERCP.

The note in section 185(1) is also updated to refer to section 79 of the MERCP which relates to when an access agreement binds the registered proprietor of a lot.

Insertion of new pt 12, div 10

Division 10 Transitional provisions for Land and Other Legislation Amendment Act (No. 2) 2023

Clause 93 inserts transitional provisions for the Land and Other Legislation Amendment Act (No. 2) 2023.

Subdivision 1 Provision for amendments commencing on assent

225 Plans of subdivision lodged but not registered before commencement

New section 225 applies to a plan of subdivision lodged, but not registered, before the commencement where the Minister has consented to the plan and to the extent the plan provides for the dedication of a lot to public use for a purpose stated in schedule 1 of the Land Act as in force immediately before the commencement. New section 225 provides that on the registration of the plan the lot is dedicated as a reserve for the former schedule 1 purpose.

Division 3 Amendments commencing by proclamation

Amendment of s 50 (Requirements for registration of plan or subdivision)

Clause 94 amends section 50 to replace 'parks, reserves and other' with 'non-tidal watercourse, lakes' as a consequence of amendments to section 51 (Clause 95).

Amendment of s 51 (Dedication of public use land in plan)

Clause 95 inserts a new section 51(1) to provide a closed list of the types of land uses that may be dedicated on registration of a plan of subdivision, each a public use, being a road, a non-tidal watercourse, a lake, or a purpose mentioned in section 31(1) of the Land Act. This amendment will clarify that land may only be dedicated under this section for the particular public uses listed.

Section 51(2)(d) is omitted to prevent unallocated State land being created by default on registration of a plan of subdivision of freehold land. Currently, section 51(2)(d) enables a land parcel to become unallocated State land without Ministerial consent where the plan of subdivision does not specifically identify the public use land as a road, non-tidal watercourse, lake or reserve for a community purpose. This unallocated State land is then required to be managed by the State, which imposes an administrative burden on the state. This amendment addresses this issue by removing the ability for unallocated State land to be created without ministerial consent.

Insertion of new pt 12, div 10, sdiv 2

Clause 96 inserts a new part 12, division 10, subdivision 2.

Subdivision 2 Provision for amendments commencing by proclamation

226 Plans of subdivision lodged but not registered before commencement

New section 226 provides that sections 50 and 51, as in force immediately before the commencement, continue to apply in relation to a plan of subdivision lodged, but not registered before the commencement.

Amendment of sch 2 (Dictionary)

Clause 97 amends schedule 2 (Dictionary) to insert a definition of 'public use' for part 4, division 3. 'Public use' is defined under section 51(1) (Clause 95). The definition of 'public use land' is also amended to reference part 4, division 3.

Part 7 Amendment of Petroleum Act 1923

Act amended

Clause 98 states that this part amends the *Petroleum Act 1923* (1923 Act).

Amendment of s 47 (Reservations, conditions and covenants of lease)

Clause 99 amends section 47 to mandate the payment of applicable local government rates and charges as a covenant by the lessee for holding the petroleum tenure (resource authority).

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance from petroleum resource authority holders. The Queensland Government expects resource authority holders to pay their local government rates and charges to foster social license and provide benefits to the communities and regions in which they operate. The introduction of a covenant for the payment of local government rates and charges enables noncompliance action to be taken under the 1923 Act if applicable local government rates and charges go unpaid.

The payment of local government rates and charges is currently only a mandatory condition under the *Mineral Resources Act 1989,* and the clause will ensure the intent of these provisions are replicated in the 1923 Act for more consistent compliance action and regulation across the Resource Acts.

Clause 99 also amends section 47 to renumber the section.

Amendment of s 78D (Operation and purpose of pt 6G)

Clause 100 amends section 78D to enable the security given to the State for a petroleum tenure (resource authority) to be used to pay any applicable unpaid local government rates and charges, including any interest on overdue rates and charges.

The purpose of this amendment is to support local governments in recovering unpaid rates and charges by enabling money held by the State as security against the resource authority, to be used to pay the local government the unpaid rates and charges for the resource authority.

Clause 100 also amends section 78D to renumber the section.

Part 8 Amendment of Petroleum and Gas (Production and Safety) Act 2004

Act amended

Clause 101 states that this part amends the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act).

Insertion of new s 156A

156A Local government rates and charges

Clause 102 inserts new section 156A to mandate the payment of applicable local government rates and charges as a condition of holding the petroleum lease (resource authority).

The purpose of this amendment is to support local governments in recovering unpaid rates and charges and incentivise compliance from petroleum resource authority holders. The Queensland Government expects resource authority holders to pay their local government rates and charges to foster social license and provide benefits to the communities and regions in which they operate. The introduction of a mandatory condition for the payment of local government rates and charges enables noncompliance action to be taken under the P&G Act if applicable local government rates and charges go unpaid.

The payment of local government rates and charges is currently only a mandatory condition under the *Mineral Resources Act 1989,* and the clause will ensure the intent of these provisions

are replicated in the P&G Act for more consistent compliance action and regulation across the Resource Acts.

Amendment of section 161 (Conditions for renewal application)

Clause 103 amends section 161 to require a petroleum lease (resource authority) holder to pay any applicable local government rates and charges, including any interest on overdue rates and charges, before being able to make an application to renew the resource authority.

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance by resource authority holders as part of the renewal process for a resource authority and ensure more consistent regulation across the Resource Acts.

Clause 103 also amends section 161 to renumber the section.

Amendment of s 164 (Deciding application)

Clause 104 amends section 164 to enable the Minister for Resources to require the applicant to pay any applicable local government rates and charges, including any applicable interest on overdue rates and charges, as a condition of deciding to grant a renewal application for a petroleum lease (resource authority).

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance by resource authority holders as part of the renewal process for a resource authority and ensure more consistent regulation across the Resource Acts.

Clause 104 also amends section 164 to renumber the section.

Amendment of s 170A (Applying to amalgamate petroleum leases)

Clause 105 amends section 170A to require any of the relevant petroleum lease (resource authority) holders to pay their applicable local government rates and charges, including any interest on overdue rates and charges, before an application to amalgamate petroleum leases can be made.

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance by resource authority holders as part of the amalgamation process for particular petroleum leases and ensure more consistent regulation across the Resource Acts.

Clause 105 also amends section 170A to renumber the section.

Amendment of s 171 (Applying to divide)

Clause 106 amends section 171 to require the holder of the original petroleum lease (resource authority) to pay their applicable local government rates and charges, including any interest on overdue rates and charges, before an application to divide a petroleum lease can be made.

The purpose of this amendment is to support local governments in recovering rates and charges and incentivise compliance by resource authority holders as part of the process of dividing petroleum leases and ensure more consistent regulation across the Resource Acts.

Clause 106 also amends section 171 to renumber the section.

Amendment of s 487 (Operation and purpose of pt 1)

Clause 107 amends section 487 to enable the security given to the State for a petroleum lease (resource authority) to be used to pay any applicable unpaid local government rates and charges, including any interest on overdue rates and charges.

The purpose of this amendment is to support local governments in recovering unpaid rates and charges by enabling money held by the State as security against the resource authority, to be used to pay the local government the unpaid rates and charges for the resource authority.

Clause 107 also amends section 487 to renumber the section.

Insertion of new ch 15, pt 31

Part 31 Transitional provisions for Land and Other Legislation Amendment Act (No. 2) 2023

Clause 108 inserts new part 31 dealing with transitional provisions for the *Land and Other Legislation Amendment Act (No. 2) 2023* as it relates to the P&G Act and includes new sections 1040, 1041 and 1042.

1040 Undecided applications for renewal of petroleum leases

New section 1040 is inserted to provide a transitional arrangement to enable amended section 164 to apply to an application for renewal of a petroleum lease (resource authority) that was made, but not decided before commencement of the provision.

1041 Undecided applications to amalgamate petroleum leases

New section 1041 is inserted to provide a transitional arrangement to enable amended section 170A to apply to an application to amalgamate petroleum leases that was made, but not decided before commencement of the provision.

1042 Undecided applications to divide petroleum leases

New section 1042 is inserted to provide a transitional arrangement to enable amended section 171 to apply to an application to divide a petroleum lease that was made, but not decided before commencement of the provision.

The purpose of these amendments is to support local governments in recovering rates and charges and incentivise compliance by resource authority holders as part of the renewal and application process for the amalgamation and division of petroleum leases and ensure more consistent regulation across the Resource Acts.

Part 9 Amendment of Place Names Act 1994

Act amended

Clause 109 states that this part amends the *Place Names Act 1994* (Place Names Act).

Amendment of s 3 (Definitions)

Clause 110 omits the definitions ‘excluded place’, ‘executive officer’ and ‘trade or commerce’.

A new definition for ‘excluded place’ is inserted to clarify the places to which the Act does not apply, refencing amended section 4(2) which relates to the meaning of place. A new definition of ‘existing name’ is also inserted with reference to section 8(3). The latter relates to the temporary continuation of an existing name as an approved name alongside a new name.

The definition of ‘executive officer’ has been moved to amended section 16 (Responsibility for acts or omissions of representatives) and ‘trade or commerce’ to amended section 15 (Publishing unapproved place name).

This clause also makes a minor amendment to the definition of ‘approved name’.

Amendment of s 4 (Place)

Clause 111 amends section 4 to insert a new heading and amend section 4(1) and (2) to clarify the meaning of ‘place’ and ‘excluded place’ and what these are for the purposes of the Act.

This amendment addresses interpretation issues and gaps in the current legislation.

Amendment of s 6 (Place naming issues)

Clause 112 replaces section 6(2) with a restructured and broadened list of issues that are relevant to place naming decisions. The list includes the following new matters:

a) government initiatives or policies relating to place names

b) socio-economic effects of giving a name to a place, or changing or discontinuing an approved name of a place (e.g., the likely costs to businesses and members of the community resulting from a change to an approved name of a place)

c) requirements to comply with other Acts, including, for example, the *Human Rights Act 2019* and the *Anti-Discrimination Act 1991*.

This amendment recognises issues that have greater contemporary relevance. As a consequence of this amendment, section 6(3) is omitted.

When developing a place name proposal, the chief executive must have regard to the place naming issues stated in section 6(2)—refer new section 8 (Clause 114). Likewise, the Minister must have regard to the place naming issues when deciding a proposal—refer new section 11 (Clause 118), or extending the period for an existing name to continue as an approved name alongside a new name (an extension decision)—refer new section 11A (Clause 118). In addition, the decision-makers may have regard to any other place naming issues they consider appropriate.

Amendment of s 7 (Powers of Minister)

Clause 113 makes editorial amendments to section 7(1)(b) and (c); and replaces section 7(2) with two new subsections:

a) New section 7(2) provides that subsection (1) is subject to sections 8, 9, 10A and 11. These sections reflect the separation of the chief executive and Ministerial powers, and set out the new requirements for developing, publishing and deciding a place name proposal.

b) New section 7(3) makes it clear that for section 7(1)(b), a change to the boundary of an area to which an approved name relates resulting in a change to the approved name for any part of the area is a change to an approved name of a place. This amendment provides clarity and certainty around locality boundary changes tied to a place name.

Replacement of s 8 (Development of place name proposal)

8 Development of place name proposal

Clause 114 replaces section 8 to provide the chief executive with a head of power to develop a place name proposal. In developing the proposal, the chief executive must have regard to the place naming issues in section 6 of the Act and may have regard to any other place naming issues the chief executive considers appropriate.

Also, the chief executive must consider whether it would be appropriate to continue the existing name as an approved name of the place in addition to any other approved names of the place for a period of up to 5 years. In considering the matter, the chief executive must have regard to the stated place naming issues mentioned in section 6(2)(e), (f)(i), (g) and (h) as well as the public interest. The chief executive may also consider any other place naming issues.

Enabling the chief executive to develop a place name proposal, coupled with approval by the Minister, provides transparency in the place naming decision-making process. This is important because the process does not involve applications and there is no recourse of review of this decision, except under the *Judicial Review Act 1991*.

Amendment of s 9 (Notice of place name proposal)

Clause 115 omits the reference to the 'Minister' and replaces it with 'chief executive' as a consequence of the transfer of powers for developing and publishing place name proposals to the chief executive.

This clause also amends section 9(3)(c) to broaden how submissions may be made, making the place naming process more inclusive. Currently, submissions must be in writing. The effect of this amendment is that multiple different technological platforms, including audio and video, may be used by any person, including those with any disability, to make a submission in a manner of their choosing.

Further, this clause replaces section 9(4) to reduce the minimum time for submissions from two months to one month. This change aligns Queensland with other jurisdictions.

Replacement of s 10 (Dispensing with publication of proposal)

10 When publication of place name proposal is not required

Clause 116 replaces section 10 to enable the chief executive to dispense with the publication of a place name proposal in the following limited circumstances:

a) The proposal relates to a minor or technical matter. This includes minor changes to locality boundaries or coordinates, and correcting typographical errors, inaccuracies, or omissions.

b) The proposal relates to changing or discontinuing an approved name that is distressing to a community or part of the community including, for example, a community or group

of Aboriginal people or Torres Strait Islander people, having regard to the historical or cultural significance of the approved name. This exemption also extends to an approved name that is derogatory, racist, or sexist. Such names are generally offensive or cause harm to a community or community groups.

c) The proposal is not likely to be of substantial interest to the community or any particular part of the community. Influencing matters may include, for example, whether the place is in a remote or sparsely populated area and public interest or the interest of any particular part of the community.

d) The proposal has already been subject to public consultation and the consultation was adequate; or where further public consultation is likely to cause substantial distress to the community or part of the community including for example, a community or group of Aboriginal people or Torres Strait Islander people. This may be informed by the outcomes of public consultation on place name proposals led by other naming authorities (e.g., state government departments, local governments, government-owned corporations, the Great Barrier Reef Marine Park Authority), or the outcomes of Path to Treaty.

This amendment does not preclude the chief executive from publishing an exempted proposal if deemed appropriate or if asked by the Minister for any reason under new section 10B.

Overall, the amendment makes the place naming process more efficient by removing the need for inconsequential or duplicative consultation processes while retaining the discretion to publish an exempted proposal if needed. In addition, it allows other relevant consultation processes to inform place naming decisions and facilitates the speedier removal of offensive names in a sensitive manner.

Insertion of new ss 10A and 10B

10A Recommendation to Minister

Clause 117 inserts new section 10A to provide that after developing a place name proposal and complying with publication (or non-publication) requirements, the chief executive must make a recommendation to the Minister about the proposal. The recommendation must include:

a) a brief summary of the place naming issues considered when developing the proposal;

b) whether the chief executive considers the existing name should continue as an approved name of the place as mentioned in section 8(3), and if so, the continuation period of up to five years;

c) a brief summary of the submissions received if notice of the proposal was published;

d) if a notice was not published, the reasons why.

The requirement to address why a notice of a proposal was not published is intended to give the Minister the opportunity to consider whether public consultation is necessary for any reason before deciding the proposal.

The temporary continuation of an existing name alongside the new name is to facilitate the smooth transition from one name to another where an abrupt change is difficult, for example, due to the significant impact on the community and businesses.

New section 10A is a consequence of the transfer of the power to develop and publish a place name proposal from the Minister to the chief executive.

10B Minister may require publication of proposal

Clause 117 inserts new section 10B as a safeguard to provide that, if the chief executive did not publish a notice of a place name proposal because of an exemption under section 10, the Minister may require a notice of a proposal to be published for any reason before deciding the proposal under section 11(3). If asked, the chief executive must comply with the Minister's request and make a new recommendation to the Minister about the proposal.

Replacement of s 11 (Decision about proposal)

Clause 118 omits section 11 and inserts two new provisions dealing with the Minister's decision on a proposal to change or discontinue a place name (section 11) and the continuation of an existing name alongside a new name during a transitional period (section 11A).

11 Decision about proposal

New section 11 provides that the Minister must not decide a place name proposal until the chief executive has made a recommendation to the Minister under new section 10A; and if the Minister has requested the publication of the proposal under new section 10B, the chief executive has complied with the request and made a new recommendation about the proposal.

When deciding a proposal to change or discontinue a name, the Minister must have regard to the place naming issues stated in section 6. The Minister may also have regard for any other place naming issues the Minister considers appropriate as well as the chief executive's recommendation on the proposal made under section 10A.

In the decision, the Minister may state a period of up to 5 years after the day the decision takes effect during which the existing name continues to be an approved name for the place in addition to any other approved name of the place. This means that the existing name may continue to be used for trade and commerce alongside the new name for the duration of the stated period while the community and businesses adjust to the name change.

In deciding whether to state such a period, the Minister must have regard to all of the following—the stated place naming issues mentioned in section 6(2)(e), (f)(i), (g) and (h); the public interest; and the chief executive's recommendation made under section 10A(2)(b). The Minister may also have regard to any other place naming issues.

Section 11 also requires the Minister to publish a gazette notice stating the decision on the place name proposal, including the day any continuation period stated in the decision under section 11(3) ends. Further, the Minister must publish the decision in at least one of the following ways—on a relevant website; in an electronic version of a newspaper; and, in a regional newspaper circulating generally in the area of the place to which the proposal relates. The notice may also be published in another way the Minister considers appropriate.

The decision takes effect on the day stated in the gazette notice. In practice, the effective date could be the day the gazette notice is published or a later date.

The provisions relating to the continuation of an existing name are intended to operate as follows:

a) The chief executive may recommend that the Minister allows the continuation of an existing name for a certain period (which may be for a maximum of five years) under section 10A(2)(b).

b) In deciding the proposal under section 11, the Minister may elect to:

   (i) Allow the continuation—either for the period recommended by the chief executive or for another period decided by the Minister (up to a maximum of five years). In allowing the continuation, the Minister must have regard to the matters in section 11(4)—that is, demonstrate that these matters have been considered in arriving at the decision; or

   (ii) Reject the continuation recommendation—In this case, the existing name does not continue, and the penalty provisions for using the name for trade and commerce may be triggered and compliance action can be taken.

c) In the unlikely event that the Minister's decision is silent on the matter of the continuation period despite the chief executive officer's recommendation (that is, the Minister does not state a period and there is no record of the Minister considering the matters in section 11(4)), the effect is that the existing name does not continue. Therefore, the penalty provisions for using an unapproved name in trade or commerce apply and compliance action can be taken.

11A Minister may extend period for existing name to continue as approved name

New section 11A applies if the Minister considers it would be appropriate to extend the continuation period stated in a decision under section 11(3), having regard to the matters stated in section 11(4). Before the period stated in the decision ends, the Minister may decide to extend the period by no more than 5 years after the period ends (an extension decision).

The Minister must publish a gazette notice stating the extension decision, including the day the extended period ends. The Minister must also publish the extension decision in at least one of the following ways—on a relevant website; in an electronic version of a newspaper; in a regional newspaper circulating generally in the area of the place to which the proposal relates. The Minister may also publish the extension decision in another way the Minister considers appropriate.

The decision on the extension takes effect on the day stated in the gazette notice. The period stated in the decision made under section 11(3) may be extended only once.

Amendment of s 12 (Gazetteer of Place Names)

Clause 119 replaces section 12(2) to require the chief executive to publish the Gazetteer of Place Names (the Gazetteer) on the department's website. This amendment considers advances in technology, allowing free online access to the Gazetteer at any time.

Omission of s 13 (Inspection of Gazetteer)

Clause 120 repeals section 13 because Clause 119 renders the provision redundant.

Replacement of s 14 (Entries in Gazetteer)

Clause 121 replaces section 14 with new sections 14 and 14A.

14 Entries in Gazetteer

New section 14 provides that the chief executive must—

a) If the Minister gives a name to a place—enter the name of the place in the Gazetteer; and include in the entry the boundaries or coordinates, or a description of the document that states the boundaries or coordinates, of the place to which the approved name relates (subsection (1)).

b) If the Minister changes an approved name of a place (including by changing the boundaries or coordinates of the place to which the approved name relates)—amend the Gazetteer to show the change (subsection (2)).

c) If the Minister discontinues an approved name of a place—omit the name of the place from the Gazetteer (subsection (3)).

Subsection (4) requires the chief executive to comply with subsections (1), (2) or (3) as follows—on the stated day if the Minister's decision on a proposal under section 11 is to take effect on a stated day; otherwise, as soon as reasonably practicable after the Minister has made the decision.

However, under subsection (5), if the Minister's decision states a period for the continuation of an existing name as an approved name of a place under section 11(3), or extends the period under section 11A(2), the chief executive must keep the existing name in the Gazetteer as one of the approved names of the place until the continuation period, or extended period, ends. The chief executive must remove the continued name from the Gazetteer on the day the continuation period or extended period ends.

14A Power of chief executive to amend Gazetteer

New section 14A enables the chief executive to amend, at any time, the Gazetteer of Place Names to do the following—

a) Include a name of an excluded place and information about a place, including an excluded place (see section 4(2) for what an excluded place is).

b) Remove an approved name of a place, or information about a place, from the Gazetteer if the chief executive is satisfied that one or more of the following applies—for a place that is a geographical feature, the place no longer exists; or, the place has been given a name, other than an approved name under another law of the State or the Commonwealth.

c) Amend the Gazetteer, including the boundaries or coordinates of a place if the chief executive is satisfied that the change is of a minor or technical nature or the amendment is necessary to correct the Gazetteer.

The amendment clarifies the chief executive's power to deal with both present day and historical entries in the Gazetteer, thus improving the management of the Gazetteer.

Amendment of s 15 (Publishing unapproved place name)

Clause 122 amends section 15 to clarify the scope of the provision which makes it an offence in trade or commerce to publish an unapproved name in a document, or to authorise the publication in a document of an advertisement or statement, in which the unapproved name is represented as the place's name.

Subsection (2)(a) is amended by replacing 'the approved' with 'an approved'.

New subsection (2)(c) clarifies the scope of the offence provision by making it clear that section 15 does not apply if the unapproved name is part of a business name. That is, a business name that includes a place name is not the use of an unapproved place name being represented as the place's name, so the offence provision would not apply.

New subsection (3) restates the definition for 'trade or commence' (previously located in section 3).

Amendment of s 16 (Responsibility for acts or omissions of representatives)

Clause 123 makes editorial changes to section 16 in line with current drafting practices and reinstates the definition of 'executive officer' (previously in section 3).

Insertion of new s 18A

18A Rights or obligations not affected

Clause 124 provides that the giving of a name, or the changing or discontinuing of an approved name, does not impact on the rights and obligations of any person. A legal proceeding may be started or continued in relation to the former or discontinued approved name of a place despite the exercise of the Minister's place naming power under section 7 of the Place Names Act.

The Place Names Act is not intended to change a person's rights and obligations under other laws. Therefore, this amendment achieves the objectives of providing clarity, continuity and legal certainty that a place name change has no effect on a person's rights and obligations under other legislation or legal documents where a previous name is referenced. Examples of such references include penalty infringement notices, the location of court districts, court orders, contracts, leases, licences, etc.

Similarly, new section 18A does not impact on the operation of section 15 of the Place Names Act such that if a person contravenes section 15 by using an unapproved name in trade or commerce, they can still be prosecuted. For example, a former name that was not continued under section 11(3), extended under section 11A(2), or the continuation or extension has ended.

By virtue of Clause 127 which inserts new section 23, new section 18A applies both retrospectively and prospectively.

Insertion of new s 19A

19A Delegation by Minister

Clause 125 inserts new section 19A to provide a head of power for the Minister to delegate the Minister's functions or powers under this Act to another Minister.

This provision enables the Minister to delegate under the Place Names Act and not to rely on the delegation powers under the Land Act.

Replacement of s 20 (Delegation by chief executive)

20 Delegation by chief executive

Clause 126 replaces section 20 to enable the chief executive to delegate the chief executive's functions or powers under this Act to the chief executive of another department; or the chief executive officer of a local government; or an appropriately qualified public service officer.

Changes to the chief executive delegation arise from the transfer of powers to develop and publish a place name proposal from the Minister to the chief executive. It also acknowledges the role in place naming that other authorities currently have or may have in future.

Insertion of new pt 5

Part 5 Transitional provisions for Land and Other Legislation Amendment Act (No. 2) 2023

Clause 127 inserts new part 5 dealing with transitional provisions for the *Land and Other Legislation Amendment Act (No. 2) 2023* as it relates to the Place Names Act and includes new sections 22 and 23.

22 Existing proposals

New section 22 provides that the previous provisions of the Place Names Act will continue to apply to a place name proposal that has been developed by the Minister before the commencement but not decided immediately before the commencement of the *Land and Other Legislation Amendment Act (No. 2) 2023*.

This provision is to ensure a smooth transition from the current laws to the amended Place Names Act for proposals that are in progress.

23 Application of s 18A

New section 23 provides that section 18A (which confirms that the giving of a name to a place or the changing or discontinuing of an approved name of a place has no effect on a person's rights and obligation) applies whether the giving of the name, change or discontinuation happened before or after the commencement of the *Land and Other Legislation Amendment (No. 2) Act 2023.*

The prospective and retrospective application of section 18A removes any doubt about the legal effect of place name changes. Jointly, new sections 18A and 23 provide continuity, minimise disruptions, and offer predictability and certainty to all parties affected by the giving of a name, a name change or discontinuation of a name at any time.

Part 10 Amendment of Recreation Areas Management Act 2006

Act amended

Clause 128 states that this part amends the *Recreation Areas Management Act 2006* (RAM Act).

Amendment of pt 2, div 2, hdg (Amalgamating, dividing and revoking recreation areas)

Clause 129 amends the heading of part 2, division 2 of the RAM Act to include the renaming of a recreation area as an action authorised by this division of the Act. Under the sections of this division as amended, a recreation area may be changed (through amalgamation or dividing), be renamed or revoked.

Insertion of new s 8A

8A Renaming recreation area

Clause 130 inserts a new section 8A which provides that a regulation may change the name of a recreation area.

Part 11 Other amendments

Legislation amended

Clause 131 states that schedule 1 amends the legislation it mentions.

Schedule 1

Minor administrative and consequential changes are made to the legislation in schedule 1. The amendments contained in part 1 of schedule 1 commence on assent. The amendments contained in part 2 of schedule 1 commence by proclamation.